A **PUBLIC** meeting of the Brick Township Board of Adjustment

Was held on Wednesday**, February 19, 2020** at Brick Township Municipal Building

401 Chambers Bridge Road.

The meeting was called to order at 7:00 PM.

Chairman Chadwick 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. Chadwick read a statement from the Insurance Company on proper meeting conduct.

The Roll was called

**MEMBERS PRESENT**

David Chadwick

Dawn Marie White

Louis Sorrentino

Mike Jamnik

Michele Strassheim, Alt 1

Darren Caffery, Alt 2

**MEMBERS ABSENT**

Carl Anderson

Frank Mizer

**ALSO PRESENT**

John Miller, Esq.

Brian Boccanfuso, PE, CME Engineering

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. Jamnik and seconded by

Ms. Strassheim

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

**OLD BUSINESS**

**RESOLUTIONS:**

**BA-3040-RTS IV, LLC**

**Block 36 Lot 12**

**456 Route 35 North**

**Final Major Subdivision**

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

Voting in Favor: Mr. Jamnik, Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery

Mr. Chadwick

The motion carried and Resolution R-9-2020 was adopted.

**BA-3163-Brick Petroleum, LLC**

**Block 1309.103 Lot 14**

**380 Herbertsville Rd.**

**d(2) Variance Relief and Minor Site Plan**

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

Voting in Favor: Mr. Jamnik, Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery

Mr. Chadwick

The motion carried and Resolution R-10-2020 was adopted.

**BA-3168-Nancy and Robert Swift**

**Block 17.01 Lot 6**

**514 Broad Ave**

**Bulk Variance**

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

Voting in Favor: Mr. Jamnik, Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery

Mr. Chadwick

The motion carried and Resolution R-11-2020 was adopted.

**BA-3172 Patricia Eichholz**

**Block 44.04, Lot 13**

**207 Valhalla Drive**

**Bulk Variance**

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

Voting in Favor: Mr. Jamnik, Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery

Mr. Chadwick

The motion carried and Resolution R-12-2020 was adopted.

**BA-3068 Tom Tahan and Debbie Passenti**

**Block 211.29, Lot 14**

**142 Valencia Drive**

**Bulk Variance**

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

Voting in Favor: Mr. Jamnik, Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery

Mr. Chadwick

The motion carried and Resolution R-13-2020 was adopted.

**BA-3157-Brian Dreher**

**Block 870.22, Lot 29.20**

**11 Brushy Neck Court**

**Bulk Variance**

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

Voting in Favor: Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery

Mr. Chadwick,

Present but not voting: Mr. Jamnik

The motion carried and Resolution R-14-2020 was adopted.

**NEW BUSINESS:**

**BA-3169-VS Enterprise, LLC**

**Block 383.25, Lot 55**

**Wisteria drive**

**Bulk Variance**

Peter Lofredo, Esq. appeared on behalf of the applicant

James Giordano, PE, PP was sworn and he testified to the latest version of the Survey of the Property dated Sept. 23, 2019

Mr. Lofredo stated the site was an undersize lot and submitted Exhibit #1 – 3 Google Earth views ( #1 broad view, #2 aerial view to the west of the site, #3 aerial view of the east of the site, #4 actual picture of the lot from Montana drive and #5 actual picture of the site from Westeria Drive)

Mr. Lofredo testified the applicant mailed buy/sell letters to 2 adjoining property owners with no interest replies.

Mr. Lofredo stated the site is 7,300 sf. And 9,000 sf required due to site being a corner lot and all variances requesting are Bulk. Proposed dwelling will be 10% less building coverage than what is required by Ordinance and the height will also comply. He also stated the clearing of the property might be requested by future owner and no fencing proposed now, but any fencing proposed will also comply with ordinances.

Mr. Lofredo advised the applicant would provide construction details for any driveway or curbing , as well as agreed to consolidate the three lots into one lot.

Mr. Boccanfuso requested an increase to the size of the proposed dry well and advised if the future a soil conservation permit might be required for any clearing and Mr. Giordano agreed.

Chairman called for Public questions or comments, seeing none he closed the Public portion.

Factual Findings were presented by Ms. Strassheim and all members concurred.

A motion was made by Ms. White and seconded by Mr. Jamnik

Voting in favor: Mr. Jamnik, Ms., White , Mr. Sorrentino, Ms. Strassheim, Mr. Caffery and Mr. Chadwick

**BA-3173 Warner Kuenzle**

**Block 44.22, Lot 1**

**291 Periaqua Lane**

**Bulk Variance**

The applicant Mr. Kuenzle was sworn and testified, he purchased the property with the existing pool, which was 30 years old. He stated a variance is needed to proceed with the installation of his pool. The proposed 12’ X 26’ pool would be made of fiberglass and smaller that previous and he will install the fencing 1’ foot back to comply with ordinances

Mr. Romano gave a summary of the application listing the 4 variances

Mr. Jamnik inquired if the pool would be installed in the same location as previous and Mr. Kuenzle stated yes. Mr. Kuenzle stated there is existing 4’ wood fencing to be replaced by 6’ vinyl

Chairman asked what size is the existing pool and Mr. Kuenzle stated previous was 16’ X 30’ and proposed is 12’ X 26’

Chairman called for Public questions or comments, seeing none he closed the Public portion.

Factual Findings were presented by Ms. Strassheim and all members concurred.

A motion was made by Mr. Jamnik and seconded by Ms. White

Voting in favor: Mr. Jamnik, Ms., White , Mr. Sorrentino, Ms. Strassheim, Mr. Caffery and Mr. Chadwick

**BA-3176 Gary and Deborah Mingay**

**Block 941 Lot 109**

**783 North Drive**

**Bulk Variance**

The applicants; Gary and Deborah Mingay were sworn and testified, their appearance is to legitimize already constructed gazebo, outdoor kitchen and fencing.

Mr. Romano advised the board, the kitchen is 15’ X 14’, the gazebo is 12’ X 12’ with required set back of 5’ and 3.3’ is existing.

Mr. Sorrentino asked how the gazebo is anchored and Mr. Mingray stated in concrete footings. He then inquired if there were shrubs along the fencing and Mr. Mingray advised the shrubs belong to his neighbor .

Chairman called for Public questions or comments, seeing none he closed the Public portion.

Factual Findings were presented by Ms. Strassheim and all members concurred.

A motion was made by Ms. Strassheim and seconded by Ms. White

Voting in favor: Mr. Jamnik, Ms., White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery and Mr. Chadwick

Chairman called for a 5 mins recess at 8:03 and the meeting was brought back in session at 8:09

**BA-3181-Anton Semprivivo and JSTAR, LLC**

**Block 36 Lot 12**

**456 Route 35 North**

**Appeal and Interpretation**

Robert Shea, Esq., appeared on behalf of the applicant, as well as Sean Delany, P,E., Bowman Consulting, Engineer and Brian McPeak, AICP/PP, PSS, LLC, Planner who were both sworn.

Mr. Jackson appeared on the behalf of his Client RTS IV, LLC, he stated on record that he was not notified of this appeal. The Board Secretary had informed him of the appeal two weeks ago.

Mr. Shea stated the objection and compliant to show cause for zoning permit ZA-19-01269 and his office is seeking restraints in issuing Building/Construction permit. Mr. Shea stated he was compelled to file appeal due to the site is adjacent to his client’s property. He also stated he and his client are of the opinion, the site should be a single lot. The construction permit is awaiting pickup therefore has not been issued yet. The “preliminary” issuance of a zoning permit dated either October 22, 2019 or November 22, 2019 for the construction of a single-family home.

The applicant subsequently filed an application with this Board seeking an appeal of the Zoning Officer’s determination.

Exhibits:

A-1: Zoning File and Zoning Application dated 10/22/2019

A-2: Brik Township Zoning Application

A-3: Email from Mr. Starkey dated 2/19/2020

O-1: Email from Mr. Virostek dated 2/18/2020

B-1: Complaint OCN-C-23-20

Mr. Jackson, stated that Judge Francis Hodgson, P.J. Ch., vacated the original Order granting the Applications temporary restraints for a number of reasons. Mr. Jackson, testified that Judge Hodgson noticed numerous lawsuits that were pending before Judge Ford in Ocean County Superior Court, Law Division. Regarding prior approvals previously granted by this Board to RTS.

Mr. Shea stated the application was also seeking revocation of the approvals granted in August 2019 as a result of the Township Zoning Officer issuing a permit for the subject property.

Mr. Delany testified that construction of a single-family home in the referenced zoning permit, a building permitted would be required to obtain all outside agency permits, but he found that other than two CAFRA permits no other state, local or county permits were found in the file. Mr. Shea then stated that the CAFRA permits were not relevant with the Zoning permits because they did not address any compliance with the ordinance requirements.

The Board then reviewed Exhibit A-2 and noted that outside agency approvals are not Checklist items that are required.

Christopher Romano, Township Zoning Officer, explained the Zoning Application process in Brick Township. He stated that they take a complete application in which includes Zoning, Engineering, and all division of inspections sub-codes. The Zoning Permit application submitted with the Township would be simultaneously review by the Township Zoning Department, Engineering Department and Division of Inspections. He explained how the Township Zoning Permit only certifies that all zoning and land use ordinance requirements have been met. He also clarified that a Zoning Permit alone would not permit an application to begin any construction on a site. He also stated that he does not review CAFRA permits and also confirmed that the Zoning Permit in question has not been issued.

Mr. Shea then stated that the application was premature and that he is not prepared to move forward until he has the entire file including the zoning permit. He is unable to appeal a zoning permit that has not been issued. Mr. Shea was unable to identify a section of the Township Ordinance to be interpreted. He stated the Applicants arguments for the interpretation were “intertwined” with the applicants 70a testimony.

Mr. Jackson stated this is another attempted by Mr. Shea to use the process to delay and abuse the system he was well aware that the Zoning Permit was not issued.

The Charmian opened for comment seeing there was none he closed from public comment.

Board Attorney Ronald D. Cucchiaro, Esq. found there was no interpretation of an ordinance or zoning map before the Board for the Board members to decide on. The determination of any action by the Zoning Officer to the issue zoning permits due to the compliant that was filed in the superior court. The issue that was in the Boards jurisdiction the Board denies the request of the preliminary and final subdivision approval is void based on the zoning permit that was in question. And the application filed an application that referenced a preliminary approval and there is nothing to be amended or carried but the applicant reserves the right for the future of the Board’s decision. The Board denies the applicant request to carry the hearing to an unknown date.

A motion was made to accept the recommend findings from the Board Attorney.

A motion was made by Ms. Strassheim and seconded by Ms. White

Voting in favor: Mr. Jamnik, Ms. White, Mr. Sorrentino, Ms. Strassheim, Mr. Caffery and Mr. Chadwick

**ADJOURNMENT**

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

The meeting was adjourned at 9:54pm

Respectfully submitted by:

Lauren J. Frank