

May 4, 3016

A regular meeting of the Board of Adjustment was held in the Municipal Complex at 7:00 p.m.

Present	Also Present
Harvey Langer	John Miller, Esq.
Dennis Raftery	Brian Boccanfuso
Frank Mizer	Sean Kinnevy
Dawn Marie White	Denise Sweet
Stephen Leitner	
Louis Sorrentino	
Jeffrey Schneider	
Carl Anderson	

Absent

Eileen Della Volle

Mr. Langer led the salute to the flag; and the roll was called.

The Board Professionals were sworn in.

**BA-2967- Cheryl Cohan**

Cheryl Cohan was sworn in.  
John Vincenti was sworn in.

The applicant proposes to construct a covered porch 4.6 feet x 18.7 feet. The Township Code requires a minimum front setback of 30 feet and a setback of 24.3 feet is proposed. The existing single family dwelling was damaged by Super Storm Sandy and the home is being raised. The property is located in a flood zone.

**EVIDENCE**

A-1- Rendering of 3 photos of the site and a survey

Mr. Kinnevy stated that he had no objections to this application and it would not cause a detriment to the area.

Public portion closed

Factual Findings

Mr. Mizer- The property is located in the R-10 zone. The home was damaged by Super Storm Sandy. The applicant is proposing to construct a covered front porch at 24.3 feet from the front property line where by Ordinance 30 feet is required. This application will cause no detriment to the area and the proposed porch will be aesthetically pleasing to the home.

Mr. Raftery- Concurred

Ms. White- Concurred

Mr. Leitner- Concurred

Mr. Sorrentino- Concurred

Mr. Schneider- Concurred

Mr. Langer- Concurred

A motion was made to approve case BA-2967-Cheryl Cohan. It was moved by Mr. Raftery and seconded by Ms. White. Mr. Mizer, Mr. Raftery, Ms. White, Mr. Leitner, Mr. Sorrentino, Mr. Schneider and Mr. Langer voted AYE. Mr. Anderson was present but not voting. Ms. Della Volle was absent.

#### **BA-2922- Brian Duffy**

John Jackson was present to represent the applicant.

Brian Duffy was sworn in.

James Brzozowski was sworn in.

The applicant proposes to construct a rear elevated deck with a staircase, about 10.4 feet high. A minimum of 15 feet and a setback of only 4.9 feet is proposed from the rear property line and a setback of only 7.3 feet is proposed from the bulkhead. The property has bulk-headed frontage on the south-east corner of Paul Jones Lagoon and Farragut Lagoon which lead into another man-made Lagoon and then into Barnegat Bay.

Vincent DeSimone, Esq. is representing Mr. and Mrs. Cafro who are appealing the zoning permit issued from Sean Kinnevy.

Mr. DeSimone stated that a prior variance granted on the site in 1987 from the Planning Board for a subdivision was not disclosed on the application. Mr. Cafro constructed his home in 1999.

#### **EVIDENCE**

A-1- Plan showing the Minor Subdivision dated April 7, 1987 as the last revision date.

Mr. Cafro is appealing the issuance of a zoning permit and the decks being constructed. Mr. Jackson stated that Mr. Cafro submitted the appeal after the time allotted and the appeal is not valid.

Mr. DeSimone stated the Board does not have jurisdiction because the subdivision was not disclosed.

Mr. Miller stated that the Board does have jurisdiction because the Board was aware of the subdivision.

Mr. Duffy is proposing the deck on the rear side of the home. The lot is flag shaped and the home was destroyed by Super Storm Sandy. A new home is being constructed and raised. Mr. Duffy stated that the pilings for the deck are already sunk into the ground but the deck is not constructed. Two cars can be parked under the deck. A permit was issued for the deck and no appeal was filed within 20 days.

Mr. Jackson stated that the deck is aesthetically pleasing to the home and provides a 2<sup>nd</sup> egress to the home. It also provides air, light and open space for the home owner. The deck is shielded from the objecting neighbor and has no negative impact.

Mr. Kinnevy stated that he had no objections to the proposed deck.

Mr. DeSimone stated that the property is unique and questioned the width of the driveway.

Andrew Janiw was sworn in. He is a licensed planner.

## EVIDENCE

O-1- Aerial photo of the lots taken in 2014 and 2015.

Recess: 8:43 Meeting resumed: 8:50.

Public portion closed

## Factual Findings

Mr. Raftery- The property is located in the R-5 zone located in Shore Acres. The home was destroyed by Super Storm Sandy and is being rebuilt. The rear elevated deck is on the westerly side. The variances being sought are listed above and in Sean Kinnevy's report dated May 5, 2016. The fact that the lot is a flag lot creates a hardship for the applicant. The flag lot is on the intersection of two lagoons. The proposed home will meet all FEMA requirements. This application will not impair the zoning plan. There was one objector being represented by Council. The Board has approved many similar applications.

Mr. Mizer- Concurred

Ms. White- Concurred

Mr. Sorrentino- Concurred

Mr. Leitner- Concurred

Mr. Schneider- Concurred

Mr. Langer- Concurred

A motion was made to approve case BA-2922- Brian Duffy. It was moved by Mr. Leitner and seconded by Ms. White. Mr. Mizer, Mr. Raftery, Ms. White, Mr. Sorrentino, Mr. Leitner, Mr. Schneider and Mr. Langer voted AYE. Mr. Anderson was present but not voting. Ms. Della Volle was absent.

### **BA-2958- John and Carmen Cafro**

Vincent DeSimone was present to represent the applicant. He stated Mr. and Mrs. Cafro are appealing Mr. Kinnevy's decision to issue a permit to Mr. Duffy.

Mr. Jackson objected-Jurisdictional Argument presented at meeting.  
EVIDENCE-O-1- The Untimeliness and Multiple Deficiencies of the Cafro Zoning Appeal

Mr. DeSimone objected to this submission.

The date of the Zoning Permit was April 16, 2015. Mr. Duffy posted the permit on a telephone poll on the site. A letter dated May, 2015 stating the pilings were driven in the month of April was submitted.

Two appeals were filed. One dated September, 2015 and filed on October 12, 2015 and the second on April 15, 2015 and filed in July, 2015. The deadline must be filed within 20 days or when the objector knows about the appeal.

Mr. Miller stated the second notice was filed in a timely fashion so Mr. DeSimone can continue. A document submitted, Time Line of Building was prepared by Brian Duffy. Mr. Duffy took the photos.

Mr. Miller stated that the O-1 exhibit will not be admitted as it was not submitted 10 days prior to the hearing. The only photo in evidence will be O-1- Photo of the telephone poll with the construction permit posted.

Andrew Janiw was sworn in. He is a licensed Planner. He explained the subdivision plan dated 8/7/86 concerning the subdivision to the Board. Again, it was stated that this subdivision plan was not addressed on the application.

Mr. Langer announced this application will be carried to the July 20, 2016 meeting. The time was waived to August 31, 2016.

A motion was made to approve the Resolution for case BA-2966- Jones Tide Pond, LLC. It was moved by Ms. White and seconded by Mr. Sorrentino. Mr. Mizer, Mr. Leitner, Mr. Sorrentino, Mr. Anderson, Ms. White and Mr. Langer voted AYE. Mr. Raftery and Mr. Schneider were ineligible. Ms. Della Volle was absent.

A motion was made to approve the Resolution for case BA-2969-Peter and Suzanne Dougherty. It was moved by Mr. Mizer and seconded by Mr. Leitner. Ms. White, Mr. Anderson, Mr. Sorrentino, Mr. Leitner, Mr. Mizer and Mr. Langer voted AYE. Mr. Raftery and Mr. Schneider were ineligible. Ms. Della Volle was absent.

A motion was made to approve the Resolution for case BA-2943- Anita West. It was moved by Ms. White and seconded by Mr. Mizer. Ms. White, Mr. Mizer, Mr. Leitner, Mr. Sorrentino, Mr. Anderson and Mr. Langer voted AYE. Mr. Raftery and Mr. Schneider were ineligible. Ms. Della Volle was absent.

A motion was made to adjourn the meeting at 9:55 p.m. All members voted AYE.

Respectfully submitted,

Christine Papa, Secretary  
Planning Board/Board of Adjustment