

PLANNING BOARD  
BOROUGH OF ATLANTIC HIGHLANDS

140 First Avenue  
Atlantic Highlands,  
New Jersey  
Monday, March 25, 2019

x ----- x

IN RE:

- APPLICATION FOR  
PRELIMINARY AND FINAL  
SUBDIVISION WITH VARIANCES  
AS MAY BE REQUIRED: DENHOLTZ  
CUSTOM HOMES

TRANSCRIPT  
OF  
PROCEEDINGS

x ----- x

B E F O R E:

|                   |   |               |
|-------------------|---|---------------|
| RICHARD COLANGELO | - | CHAIRMAN      |
| JAMES NEFF        | - | VICE CHAIRMAN |
| JOHN MCGOLDRICK   | - | BOARD MEMBER  |
| KATHRYN KLOBY     | - | BOARD MEMBER  |
| MARTIN HAWLEY     | - | BOARD MEMBER  |
| DEBORAH MURRAY    | - | BOARD MEMBER  |
| LOUIS FLIGOR      | - | BOARD MEMBER  |
| LOUIS ILLIANO     | - | BOARD MEMBER  |
| BRIAN DOUGHERTY   | - | BOARD MEMBER  |
| DOUGLAS PEPE      | - | BOARD MEMBER  |
| DR. EDWARD CETRON | - | BOARD MEMBER  |
| JOSEPH CACCAMO    | - | BOARD MEMBER  |
|                   | - |               |

ALSO PRESENT:

|                        |   |                 |
|------------------------|---|-----------------|
| MICHAEL B. STEIB, ESQ. |   | BOARD ATTORNEY  |
| DOUGLAS ROHMEYER       | - | BOARD ENGINEER  |
| ERIN URIARTE           | - | BOARD SECRETARY |

APPEARANCES

COMMUNITY MEMBERS:

Mark Fisher

[0:00:00]

**Chairman Colangelo:** Ms. Uriarte, can you do a roll call?

**Ms. Uriarte:** Dr. Kloby?

**Dr. Kloby:** Here.

**Ms. Uriarte:** Mr. Fligor?

**Mr. Fligor:** Here.

**Ms. Uriarte:** Mr. Hawley?

**Mr. Hawley:** Here.

**Ms. Uriarte:** Mr. Caccamo?

**Mr. Caccamo:** Here.

**Ms. Uriarte:** Dr. Cetron? Mr. Neff?

**Mr. Neff:** Here.

**Ms. Uriarte:** Mr. Pepe? Ms. Murray?

**Ms. Murray:** Here.

**Ms. Uriarte:** Mr. Colangelo?

**Mr. Colangelo:** Here.

**Ms. Uriarte:** Mr. Dougherty?

**Mr. Dougherty:** Here.

**Ms. Uriarte:** Ms. Drew [phonetic]? Mr. McGoldrick?

**Mr. McGoldrick:** Here.

**Ms. Uriarte:** Mr. Illiano?

**Chairman Colangelo:** If you could all rise, please provide for a silent prayer and pledge of allegiance.

**All:** I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands. One nation, under God, indivisible, with liberty and justice for all.

**Chairman Colangelo:** Pursuant to Section 5 of the Open Public Meeting Act, this meeting has been duly advertised in accordance with law by publishing to the official newspapers of the Borough, and by posting in the Borough Hall by the Borough Clerk as part of the annual notice. This meeting is a quasi-judicial proceeding. Any comments or questions must be limited to issues that are relevant to what the Board may legally consider in reaching a decision. Decorum appropriate to a judicial hearing must be maintained at all times. First item on the agenda, and the only item on the agenda this evening, is PB18-06, Block 142, Lot 5, 17 Avenue D, Denholtz Custom Homes, Application for preliminary and final subdivision with variances, as may be required. Mr. Steib?

**Mr. Steib:** Yes, Mr. Chairman. This is a continuation hearing. The matter was carried. The uh, due date was announced at the last Planning Board meeting, and the Applicant has also been given a supplemental notice as well with the mailing and [indiscernible] [0:02:01].

**Chairman Colangelo:** Thank you, Mr. Steib. We left off at the last meeting uh, that haven't gotten through the questions. We are now at the statements and comments portion of this Application. Uh, I am going to go all the way back to 8/29. You might have signed up tonight, but if you have signed up prior to that, please stand up and make your comments um, and we will go from there. Shelly Kennedy [phonetic]? Mr. Fisher?

**Mr. Steib:** Sir, please raise your right hand and be sworn please. Do you either swear or affirm that any testimony given in connection with this proceeding will be the truth, the whole truth, and nothing but the truth?

**Mark Fisher:** I do.

**Mr. Steib:** And your name and address?

**Mark Fisher:** Mark Fisher, 91 3rd Avenue. Thank you, Mr. Colangelo. Uh, for the record, I attended every single Denholtz meeting, including the first presentation made to the Borough Council in February of 2018. Not even the members on this Planning Board have heard the complete array of meetings involving the McConnell property proposals as I, and probably just a handful of other

residents, have.

This tract has had four different designs since its inception. In the workshop on February 2018, private roll out included 21 boats uh, 20 deck -- uh, dock houses, 10 dots added to the Sandy Hook Bay, a small parking lot, and a lot of public open space where the boardwalk, the project required many variances. The second design would conduct houses and docks, removed the dock houses and docks, left the boardwalk intact, increased the amount of public open space, and the parking for the people who needed beach access remained, but it still required variances and waivers. The third design moved the sewage lift station, added the flood zone along Avenue D. It retained the boardwalk and the public open space, but removed the parking lot, yet it still required variances and waivers.

The current design reduced the number of homes from 21 to 16. It moved the pumping station halfway back down the hill away from Avenue D, yet is just outside the flood zone. The street went from a loop to a cul de sac, and the boardwalk is now gone, as is all of the public open space. As a result of the reconfiguration of the lot sizes and setbacks, the Denholtz team has now put in an Application. They claim that no variances or waivers are required. Denholtz company principals, CEO, Steven Denholtz, who has attended most of these meetings and is here tonight, has [indiscernible] [0:05:13]. And in December of 2017, the real estate of New Jersey -- Real Estate New Jersey of '19 article by Joshua Burd. Mr. Denholtz stated that we, Denholtz, go where the opportunities are. The water is an incredible attraction. Hundreds of Atlantic Highlands residents and others who attended these meetings couldn't agree with you more, Mr. Denholtz. On the other hand, in the same real estate New Jersey article, Denholtz company president, Mr. Stephen Cassidy, stated, I tend to look at things, more things that are square boxes that we can rent or sell to people.

In the afterward press article by Jerry Carino, in office last year, Mr. Denholtz explained about the McConnell property. We, meaning Denholtz, are giving the public what they are asking for, a 100-foot walkway area and a 10-foot wide boardwalk. On two different times on September 5th, an article by Chris Rotola, Mr. Denholtz drove home the idea that we, meaning Denholtz, aren't destroying

1 the waterfront, we're adding public domain for a significant amount of beautiful, usable waterfront  
 2 property. In two of these articles, Mr. Denholtz shared that he couldn't understand why there was this  
 3 level of push back. The McConnell waterfront seven-acre tract could certainly be developed into a  
 4 beautiful property. That all depends on which side of the public open space vs. development today  
 5 comes, Mr. Denholtz. After all, the public would love to have open space at the McConnell Tract. The  
 6 water certainly is an incredible attraction. The final design of this project removes all public open space  
 7 as you promised to us, Mr. Denholtz. The Atlantic Highlands family has been deemed not welcome to  
 8 visit and enjoy the last scenic significant waterfront property in our Borough. Six or seven Borough  
 9 meetings ago, Borough council meetings ago, Mr. Sonnekshmelz called the mayor of the Borough  
 10 council members. Borough residents, all obviously, and are part of the Atlantic Highlands family as  
 11 well. He asked them all point blank, it's public record, are you all in favor of preserving public open  
 12 space in the Borough? All six council members say yes. Our mayor, however, chose to abstain from  
 13 answering Mr. Sonnekshmelz question. As I said, it's all on record.

14 I'm positive that if I polled this Board here tonight, whether or not you are all in favor of  
 15 preserving open public space in the Borough, either Mr. Steib or Mr. Colangelo would suggest to you all  
 16 not to answer me. But maybe I'm wrong, so I'll ask of all those on the Board, are you in favor of  
 17 preserving public open space in the Borough of Atlantic Highlands.

18 **Chairman Colangelo:** Uh, Mr. Fisher, you are correct. I will ask the Board to not  
 19 answer that question in the comment section of the public.

20 **Mark Fisher:** Okay. This is significant that we never really got a good answer from Ms.  
 21 McCann's [phonetic] question from the last meeting. Asked if the Denholtz team has to improve  
 22 specifically on the Atlantic Highlands Borough administration indicated to them that maintaining the  
 23 public access to this property would be too costly, resulting in the Denholtz team from removing any and  
 24 all public open space areas from the project, a convenient [indiscernible] [0:08:49] from the Denholtz  
 25 team.

1 Onto a different subject. Although I had asked certain questions regarding the current  
 2 environmental status of the property to be meeting fact, I really just wasn't comfortable with the  
 3 responses that I was given. Um, crossed over to Mr. Kennedy that basically, nothing down -- there's  
 4 nothing down there for you to worry about. By the end of January of this year, I filed an open request.  
 5 [Indiscernible] [0:09:18] 2019, 00116, to have access to whatever specific environmental information  
 6 that was supplied to all that were sitting on the Board as part of the Denholtz application packet for the  
 7 McConnell property. When it comes to vote -- I'm sorry. Atlantic Highlands open request 00116 was  
 8 satisfied, the Borough Clerk on time with three documents to addressing Mr. Art McConnell or  
 9 McConnell Realty. The third was addressed to the NJPEP, Department of Environmental Protection.  
 10 Since this information was supplied to me, I had to assume that all of you on the Board received this  
 11 information. The first was a 14-page letter from two different environmental firms, HUD Systems dated  
 12 August 14, 2017, and Brownfield Science and Technology dated August 9th of 2018, referencing soil  
 13 contamination at the site. In that document, licensed by a remediation professional, notice in LSRP, Mr.  
 14 Donald Brisden Smith [phonetic] signed off on the DEP response outcome for REO for areas of concern,  
 15 numbers 1 through 35 on the property for the soil contamination part of the remediation. Even though  
 16 the LSRP, Mr. Brisden Smith signed off on its validity, the NJPEP can inundate the REO at any time  
 17 additional contamination may be found on the property.

18 So, currently, an expert has attested to the NJPEP that all is well supposedly with the soil  
 19 at the site, but should they find any additional contamination from the candidate disturbance of the  
 20 property, excavations, for instance, further remediation could be deemed necessary. It should be noted  
 21 here that no soil has been removed from the site beyond site contamination is being remediated through  
 22 natural continuation. One of the NJPEP forms entitled Response Action Outcome Form in Section B, a  
 23 scope of response action outcome, question number 2 asks, areas of concern, AOC number 36 was  
 24 checked, LNLPL area as an area of concern by the LSRP. I stated earlier that the LSRP signed off on  
 25 areas number 1 through 35 as meeting the NJPEP criteria. LNLPL is defined as a light, non-aduse

1 [phonetic] liquid of ground water contaminant not soluble in water and will float on the water table.  
 2 Question 5 on the state form of any outstanding AOCs, or areas of concern, associated with this case  
 3 where an REO has not been taught, the answer is yes.

4 On a second note, open documents sent to me, I assume that's the new project copy, a 16-  
 5 page letter from the DEP for the groundwater remedial action permit effective September 2nd of 2017.  
 6 RAP Number 17000 was sent. It was sent to Mr. Arthur McConnell instructing him to continue  
 7 obtaining uh, licensed remediation professionals. Uh, the following has a requirement with the  
 8 continued groundwater at the site. The letter was signed by Mr. William Hoze, Deputy Director of the  
 9 NJPEP remediation review panel.

10 The third document that I received, and I must assume that all of you have, must have  
 11 recently been sent to you to supplement the McConnell Tract Application, as it was dated October 18th  
 12 of 2018. I'm sure all Board members will remember this document as it is 683 pages long. It is the  
 13 groundwater remedial action protectiveness/bi-annual certification report along with the associated DEP  
 14 forms. Issued by Brownfield Science and Technology from their mid-Atlantic region in Cochranville,  
 15 Pennsylvania. It was signed by a Mora Pierce Remerikta [phonetic], a geologist for BSTI, and the same  
 16 Ellis Sorti-Risensmith [phonetic], as well as Mr. McConnell, and it was sent via certified mail to the  
 17 DEP Bureau of Case Assignment. It was also cc'd to the Atlantic Highlands Borough. The miner and  
 18 well sample results in the document were taken in September of last year, and the analysis data was  
 19 certified well after these subject Application hearing meetings started in July of last year. A question for  
 20 the Borough Board Chairman. At 683 pages, I'm sure the members would have remembered any of  
 21 these documents, it was supplied to me, I'm sorry, it was sub-dated October 18th. Have you and all  
 22 members of the Board received this document and read through it's contents?

23 **Chairman Colangelo:** We have not read through the 600, but we did receive a summary  
 24 of such.

25 **Mark Fisher:** Okay. Thank you very much. The document outlines the mandate for

1 continuation of monitoring of the groundwater contaminant through natural continuation. It lists a  
 2 master location of monitored wells, as well as the map, mapping the areas of concern. It specifies the  
 3 testing methods of testing frequency, reporting mandates, and having independent testing labs must  
 4 analyze the well sites. And it also contains literally hundreds of pages of sample analysis, data, and  
 5 results summaries. It's on natural continuation, as I mentioned before. For those that may not know  
 6 what that means, it's defined by the EPA as a variety of physical, chemical, or biological processes that  
 7 under favorable conditions act without human intervention to reduce the mass, toxicity, mobility,  
 8 volume, or concentration of contamination in soil or groundwaters. So, basically, we just pass these  
 9 substances along and sooner or later they will go away. But is the groundwater on this property subject  
 10 to twice daily convenient tidal influence considered being favorable conditions. The NJPEP remedial  
 11 action effectiveness certification form [indiscernible] [0:16:13] some interesting comments.

12 In Section B, type of groundwater remediation, uh, monitoring natural continuation is  
 13 checked as a groundwater sampling conducted at the site since the CEA listed established or the lasts of  
 14 middle groundwater remedial protection is bi-annual certification form, whichever is more recent? Yes  
 15 is checked. The results of the groundwater sampling demonstrate that contaminate concentrations have  
 16 decreased to or are below the applicable groundwater quality standards for two consecutive sampling  
 17 events? The answer no is checked. Did the results of the groundwater sampling indicate that there is a  
 18 decreasing trend of contaminant concentrations in the groundwater? The answer no is checked. If the  
 19 answer no is checked, is the groundwater fluent and considered stable? The answer checked was yes. In  
 20 Section J, are volatile organic compounds included in the CEA at the classification section areas? I'm  
 21 sorry, if all valid organic compounds included in the CEA? The answer checked was yes.

22 Based on the most recent data available, do any of the contaminants in the CEA exceed  
 23 the current groundwater screening levels in the NJPEP's vapor intrusion technical guidance document?  
 24 The answer checked is yes. Was it necessary to re-evaluate the tank and transport of the groundwater  
 25 contaminant or contaminants with regard to vapor intrusion? The answer checked was no. Were there

- 1 any charges -- changes in the property use that increased the risk of vapor intrusion? The answer
- 2 checked was no. Did you investigate the vapor intrusion pathway? The answer checked is no. So, the
- 3 vapor intrusion pathway for monitoring well no. 2 was not evaluated specifically --
- 4 **[0:18:23]**



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Dated: 26<sup>th</sup> day of August 2019



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