

**PLANNING BOARD  
BOROUGH OF ATLANTIC HIGHLANDS  
JULY 31, 2018**

SPECIAL MEETING: 7:31 P.M.

Roll Call                   **Members Present** – Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Ilarazza, Mr. McGoldrick, Mr. Dougherty  
**Members Absent** – Mr. Pepe

Michael Steib was present as Board Attorney. Douglas Rohmeyer was present as Board Engineer.

Mr. Steib advised the public that the Fire Marshall has advised that they are over occupation of the room. The Board will conduct some administrative business and they will then call the application for Counsel to address the Board briefly. The meeting will be concluded in order to find a larger venue to conduct the hearing so that everyone can be in the room in a safe situation. There will be notice in the newspaper and to the neighbors within 200 feet.

Chairman Neff called the meeting to order and stated that the meeting is being held in compliance with the Open Public Meetings Act. Chairman Neff called for a moment of silent prayer followed by the Pledge of Allegiance.

**Approval of Minutes for the July 12, 2018 Regular Meeting**

MR. COLANGELO MOVED TO APPROVE THE MEETING MINUTES FOR JULY 12, 2018, SECONDED BY DR. CETRON.

Ayes:                   Mr. Illiano, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffman, Mr. Neff, Mr. McGoldrick, Mr. Dougherty  
Nays:                   None  
Abstain:               Councilman Fligor, Mrs. Murray, Mr. Ilarazza  
Absent:                Mr. Pepe

**PB18-08, Block 71, Lot 2, 9 Grand Avenue (Cohn/Mumm) – Resolution of Memorialization for Fence Variance with Conditions** – Mr. Steib stated that this resolution memorializes the approval that was granted at the July 12, 2018 meeting.

MR. COLANGELO MOVED TO ADOPT THE RESOLUTION, SECONDED BY DR. CETRON.

Ayes:                   Mr. Illiano, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffman, Mr. Neff, Mr. McGoldrick, Mr. Dougherty  
Nays:                   None  
Abstain:               Councilman Fligor, Mrs. Murray, Mr. Ilarazza  
Absent:                Mr. Pepe

**PB17-17, Block 13, Lot 24, 210 Ocean Boulevard (Parasar) – Resolution of Memorialization for Bulk and Use “d” Variances** – Mr. Steib stated that this resolution memorializes the approval that was granted at the July 12, 2018 meeting.

MR. COLANGELO MOVED TO ADOPT THE RESOLUTION, SECONDED BY DR. CETRON.

Ayes:                   Mr. Illiano, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffman, Mr. Neff, Mr. McGoldrick, Mr. Dougherty  
Nays:                   None  
Abstain:               Councilman Fligor, Mrs. Murray, Mr. Ilarazza  
Absent:                Mr. Pepe

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**PB18-06, Block 142, Lot 5, 17 Avenue D (Denholtz Custom Homes) – Application for Preliminary & Final Major Subdivision Approval with Variances** – Mr. Steib advised that John Giunco is here on behalf of the applicant. Kevin Asadi is also here on behalf of some interested parties. Both parties wish to speak to the jurisdictional aspects of the application. The Planning Board had received a letter last week from Mr. Asadi raising some questions raising issue to the Board’s jurisdiction to hear this matter. Mr. Giunco has responded to that and Mr. Steib advised he also has provided a memo to the Board on the issue. Mr. Asadi provided a supplemental letter to the Board this morning, to which Mr. Giunco will respond after Mr. Asadi makes his comments. Mr. Steib also provided the Board with a supplemental memorandum to address those issues.

Kevin Asadi, Zager Fuchs LLC, appeared on behalf of Neighbors for Waterfront Preservation. Mr. Asadi stated that the jurisdictional issue has been eliminated to his satisfaction, based on the 1973 deed, provided by Mr. Guinco, he can see that the entire Riparian Grant was conveyed out to Atlantic Highlands. A new question is now raised; the metes and bounds description of the original riparian grant to standard oil in 1930 provides a survey drawing of the mean high water line, which then becomes the southerly boundary of the riparian grant. When the riparian grant was then conveyed to the Borough of Atlantic Highlands, it changes Block 142 Lot 5, because any upland area must be excluded. Based on the images available, it looks suspicious that the mean high water line does cut through the subject property. The survey presented by the applicant includes a number of data sources and a chain of title. Omitted from those data sources is the actual riparian grant. That could possibly lead to a situation where the Board hears a long application and we find out the subject property isn’t what we thought it was. Mr. Asadi suggests the application be deemed incomplete to allow for further surveying work to be done.

John Giunco, Giordano, Halleran & Ciesla, attorney for the applicant, Denholtz Custom Homes, stated that he went through this issue twice; once during the acquisition process and again after Mr. Asadi’s letter. Mr. Giunco advised that in the first instance, none of the property on lot 5 is affected by the riparian grant. Secondly, the very deed that Mr. Asadi just referred to, has what is called a “tie-line” that begins on Avenue D and out past the mean high water line to the southerly boundary of the riparian grant in question, known as lot 16. Mr. Giunco further advised that his client hired a licensed surveyor, who has surveyed the property and he has asked them to outline on the plan, a survey of the riparian grant and its proximity to this applicant’s lot. The first thing that licensed surveyor must do, is rely on that deed from 1973 to demonstrate the tie-line and it gives an exact distance from the starting point to the southwesterly corner of the riparian grant, which is well beyond the property boundary line. The applicant has followed all necessary procedures and the riparian grant never came in to title for McConnell, it was always titled to the Borough of Atlantic Highlands. This has been confirmed by the title company and Mr. Asadi has just stated that he agreed with that. The applicant is relying on licensed surveyors and a signed, sealed survey.

A Colored Rendering of the Boundary and Topographic Survey Map for Block 142 Lot 5 prepared by John T. Luts of Yorkanis & White, dated September 28, 2017, last revised April 12, 2018 was marked as Exhibit J-1.

A Deed from the State of New Jersey to Standard Oil Company of New Jersey, dated July 21, 1930 recorded July 2, 1973 was marked as Exhibit J-2.

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Mr. Giunco stated that his client has prepared an appropriate plan and have relied on a licensed surveyor, who confirmed the metes and bounds are accurate. There is nothing from any other licensed surveyor to dispute that issue. The deeds speak for themselves in that the riparian grant was conveyed to the Borough in 1973 without a description so even though Mr. McConnell thought he was buying the riparian grant, there was in fact, nothing to sell as it had been conveyed to the Borough. That little bit of ownership is partly significant for the original issue that Mr. Asadi has agreed is no longer in dispute, however he remains concerned about the location of the riparian grant. Mr. Giunco reiterated that he is providing a licensed surveyor's metes and bounds description locating it off of the property as represented in Exhibit J-1. He submits that the Board has full jurisdiction to proceed and the riparian grant should not be an issue in this application. His client is ready to move forward, however he understands it will not go forward tonight. The applicant is readily available when they decide on a meeting. He added that there are only 21 lots available so they will have to hold a lottery for everyone who wants one.

Mr. Steib stated that most of his two memorandums are now moot, as they are no longer looking at the riparian grant and are now looking at the location of a property line. He has reviewed the Administrative Code and Statutes with the practice of surveying and engineering. He cited several statutes and codes that regulate those practices. The signature and seal of the surveyor, architect or engineer signifies that the licensee takes professional responsibility for the document based upon accepted standards of practice at the time the documents were sealed. In this case, the Board has plans before them that were signed and sealed by a professional surveyor who was required to go through the proper standards. The Board has a subdivision plan, prepared and signed by a licensed engineer that meets the standards Administrative Code. The argument from Mr. Asadi is not based upon the determination of a land surveyor or licensed engineer. Therefore, the only thing the Board has before it are the certified survey and plans of the applicant. He is not saying that can't change, but for the purposes of accepting jurisdiction, the Board has plans that meet the requirements. The Planning Board may also require an amendment to the layout or design if, during the process of the hearing, facts are brought up that require those changes. If Mr. Asadi brings information from a licensed professional that places that in question, it can be considered at that point in time. Right now, the Board has plans that meet the requirements of the statutes and he does not see a basis for declining jurisdiction.

Mr. Colangelo asked what if Mr. Asadi comes back with experts and presents a survey with a different opinion during the application. Mr. Steib stated that it would have to be a credibility determination. This Board is not a Court that determines property lines. He will have to research that specific issue if it comes before the Board. He had all the other issues researched and was not aware this issue would be raised.

Mrs. Murray asked for clarification on the issue. Mr. Steib stated that the original issue was that Mr. Asadi felt that the applicant owned both the upland property and the riparian grant and that since they were adjacent to one another, they should have merged and been made part of the subdivision application. Now, there is no issue because the riparian grant is owned by the Borough and does not have to be included on the plan. Now, the issue is whether the property line is right. The only thing before the Board that meets the standards of the Administrative Code, is the survey and the engineer's proposed plans.

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MR. HAWLEY OFFERED A MOTION TO ACCEPT JURISDICTION, SECONDED BY MRS. MURRAY.

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Ilarazza, Mr. McGoldrick

Nays: None

Abstain: None

Absent: Mr. Pepe

Mr. Steib apologized for the inconvenience but there are too many people occupying the room and they will have to secure a larger facility to have the actual hearing. Notification will be published in the newspaper and those within 200 feet of the property will receive notice.

Mr. Giunco asked that if Mr. Asadi plans to submit a survey, he would like to have it before the hearing so that they have a chance to address it. Mr. Asadi stated that as soon as he has a survey, he will be sure to bring it to everyone's attention. He asked when they will know a hearing date. Mr. Neff advised that they need to discuss this to find a location as well as a quorum. Mr. Asadi asked for proper notice so that he can try to have the issue resolved. Mr. Neff advised that we will let him know as soon as we know.

Mr. Steib advised this application is being carried, a new notice will go in the newspaper and neighbors within 200 feet will receive notice in the mail.

MR. FLIGOR MOVED TO ADJOURN THE SPECIAL MEETING, SECONDED BY DR. CETRON. BY VOICE VOTE ALL AGREED.

There being no further business to come before the Board, the Special Meeting was adjourned at 8:01 P.M.

Erin Uriarte  
Planning Board Secretary