

BAY HEAD PLANNING BOARD

October 21, 2013

The meeting of the Bay Head Planning Board was held on Monday, October 21, 2013 at 7:30 PM.

Mr. Furze read the following statement: "Pursuant to the applicable portions of the NJ Public Meetings Act, adequate notice of this meeting was mailed to the Ocean Star and posted in the corridor of the Borough Hall and filed with the Bay Head Borough Clerk."

Roll Call: William Furze, Verity Frizzell, Kathleen Tell, Peter Harrington, Brian Magory, Bart Petrillo, Patricia Wojcik, Edward Convey, Robert Hein, Kathleen Wintersteen, Frederick Applegate.

Absent: William Curtis, William Tubbs.

The August 26, 2013 minutes were not available.

The September 16, 2013 **minutes** were approved on a motion by Kay Tell and seconded by Peter Harrington, with all in favor.

Mr. Furze stated the Board had for review the **Resolution** for David Bryan. A motion was made by Verity Frizzell and seconded by Kay Tell to approve the corrected Resolution. Roll Call YEAS: William Furze, Verity Frizzell, Kay Tell, Peter Harrington, Brian Magory, Edward Convey, Robert Hein.

Mr. Furze stated the Board had for review the **application** for Alison Amelchenko, 126 Osborne Avenue, Bay Head, a/k/a Block 1, Lot 47. He further stated we received a letter from Roberta Burcz, Esq. to adjourn the meeting. Ms. Burcz was at the meeting and explained that although she noticed the adjacent property owners by September 6, 2013, it wasn't until October 10 and October 16, 2013 that she received requests from adjacent owners who indicated interest in purchasing the property. She also had an appraisal and wanted to withdraw the request and proceed. Mr. Furze explained the Board members were under the impression it would be adjourned until the next meeting, and the word was out there about the requested adjournment and local property owners were not present. He wanted to give them the opportunity to hear the testimony. Mr. Zabarsky clarified there were 2 interested purchasers of the property and there was a fair market value appraisal. He suggested the Board consider the adjournment. He offered if any of the property owners were in attendance, he would like to hear their testimony. Ms. Burcz requested no new notice be required due to the hardship for her client. The Board agreed to carry this to November 18, 2013. Mr. Shore was there and agreed to the new date.

Motion was made by Mrs. Tell to carry one month to November 18, 2013 without further notice, seconded by Mr. Convey, with all in favor.

Mr. Furze stated the Board had for review the **application** of Atlantic Pier Co., Inc. regarding 70-72 Bridge Avenue, Bay Head.

Mr. Zabarsky stated it appears as though they are looking for a use variance with 3 residential units on top and conditional height variances, D variances, the height is more than 10%. Also, a special reasons variance due to the parking.

Mr. Hein and Mr. Applegate recused themselves as they are members of the Fire Department within 200 feet and therefore have a conflict of interest.

Mr. Magory recused himself because he is a Council member.

Ms. Wojcik recused herself because the principal is her neighbor.

Donna Jennings, Esq. of the law firm of Wilentz, Goldman & Spitzer stated she would be representing Atlantic Pier Co., Inc.

Mr. Zabarsky indicated they had a preliminary discussion as to procedure. The Board is constituted under 40:55D-23 as a Planning Board. On a 9 member Board, we determine on some cases that 2/3 of the full authorized membership need to vote on a use variance under 40:55D-70. We've always determined that to be 6 of 9. Ms. Jennings agreed to proceed.

The following items were marked into evidence:

- A-1 Application
- A-2 Survey
- A-3 Architectural plans for residence
- A-4 Preliminary final major site plan
- A-5 Review letter from Board Engineer
- A-6 Affidavit of Service
- A-7 Affidavit of Publication
- A-8 Stormwater Management Report
- A-9 Aerial exhibit
- A-10 Site plan rendering
- A-11 Existing site color photo taken by Mr. Kennedy
- A-12 Color rendering of large scale of structure

Ms. Jennings stated that the applicant was seeking preliminary and final major site plan approval, a conditional use variance, a height variance and several other bulk variances to construct a mixed use building on the premises formerly known as The Shopper's Wharf. To accomplish compliance with FEMA's new height elevation levels, the applicant needs to raise the structure by approximately 6 to 7 feet. Since it is essentially a total rebuild, the applicant is also taking the opportunity to provide barrier-free access to the proposed restaurant and retail stores located on the first floor, as well as the other 3 apartments to be built on the second floor. The applicant is also going to provide public access from the street to the water by a path underneath the building. In order to provide the barrier-free access which requires an elevator, and the proposed public

access path, the applicant needs to raise the proposed structure several additional feet above the mandatory 6 to 7 feet to provide sufficient head room. She additionally stated that although there are a number of bulk variances being requested, it should be noted that 7 of those variances are improvements over existing site conditions.

Joseph W. Pandozzi was sworn in by Mr. Zabarsky.

Mr. Pandozzi stated he is the Vice President of the Hesse Companies. One of the companies the Hesse Companies wholly owns is Atlantic Pier Company, the applicant.

Mr. Pandozzi stated they are proposing a 2-story building lifted to the proper elevation; the downstairs would have a restaurant in the rear of the building with a deck overlooking Twilight Lake and in the front, retail shops, hopefully some of which would be the former shops washed out during Hurricane Sandy. He further stated they would like 3 apartments upstairs which over the summer, would help them to financially support the building.

James Kennedy, licensed professional engineer, 211 Maple Avenue, Red Bank, NJ was sworn in by Mr. Zabarsky.

Mr. Kennedy referred to the Google Earth aerial exhibit of the old Shopper's Wharf, which was marked into evidence as A-9. He additionally referred to a second exhibit, a color rendering of the site plan, which was marked into evidence as A-10. In referring to A-9, he stated that the old Shopper's Wharf is centered on the site and in front with close proximity to the sidewalk. To the rear is a trellis, broken paver area and walkway along the ditch on the eastern side of the property. He stated due to Hurricane Sandy, the site was devastated to the point where it was no longer feasible to repair or reconstruct in its place. The lot area exceeds the minimum for the zone; 5,000 sq. feet is required where 9,384 feet exists. Further, the lot width exceeds the minimum for the zone; where 50 feet is required, 53.75 feet exists. The front yard setback is an existing non-conforming of 13 feet where 20 feet is required.

He stated they are improving the setback to 18 feet under the proposed conditions. As to the side yard setback, one side setback minimum is 6 feet and in the existing condition, the structure is 2.3 feet from the property line to the west. Under proposed conditions, they would be moving it slightly over and extending that side yard setback to 3 feet.

There is a 3 foot easement that exists along the westerly property line for which there isn't much of a description of its purpose. Given its size and the fact there is nothing there, they discerned it was likely for pedestrian access in one point in the history of title, possibly access to the lake or to a second structure which may have existed at one point. The plan is to respect that with a 3 foot setback from that property line, which is an increase over existing. The existing Shopper's Wharf has a porch that wraps around the front, and the plan is to further enhance and enlarge some of the exterior areas under proposed conditions. A structure of 9,440 square feet is proposed. It will be elevated to an elevation above the BFE which is an elevation 9. They are providing a paver path centered on the building that goes beneath the building, for which they had to provide viable head room and head space below the structure in order for the pedestrian access to work. Due to the vertical change required by the BFE, there will be ADA access. The

plan is to use a center core elevator, centered in the building structure beneath the building, to access the retail and restaurant above. To do that, they had to provide a full stop elevator below the structure.

They therefore have come up with a finished floor elevation slightly above the minimum as required by FEMA and thus, are asking for a building height variance. They are requesting 40.2 feet where 32.5 feet is permitted in the zone.

Mr. Kennedy discussed the proposal to again continue the public access through a landscaped garden at the rear of which is the focal point, Twilight Lake, and a paver walkway for the users of the property as well as the public. He went on to describe the plants, pavers, bulkhead, and gooseneck lights to provide safe nighttime illumination.

Mr. Kennedy indicated what is proposed is 4 modular retail spaces, as well as a 66 seat public-style eatery restaurant behind the retail spaces, 18 seats of which will be bar seats. They would like a conditional use variance for the restaurant. Our Ordinance says restaurants are permitted but they must provide for on-site parking, which they are not doing, and a restaurant cannot be proposed within 50 feet of a residential use lot line. They are proposing a restaurant within 3 feet of the adjoining westerly residential use lot.

They are hoping to obtain a liquor license but can't know now for sure. Hours of operation of the retail shops and restaurant would follow community demand and what everyone customarily does in downtown Bay Head. Mr. Kennedy went into further detail as to truck deliveries and ground cover landscaping beneath the building, with sensitivity towards stormwater management and resistance to erosion.

Mr. Kennedy further went into more detail with regards to the density variance as required for the bedrooms or for the apartments. One 2-bedroom apartment and two 1-bedroom apartments are proposed for the top floor. He referred back to the building height—40.2 feet is proposed measured from the BFE in accordance with our Ordinance. The reason the extra height is needed is for public access, the ADA accessibility of the elevator, and raising the finished floor to be comfortably above the BFE.

He indicated that a number of the bulk variance uses proposed are actually improved deviations. He enumerated the various setbacks required and what is proposed, the length of the ramp and the minimum number of parking and loading spaces. He addressed the variance for retail space of less than 500 feet, spiral elevations as to drainage paths, and trash receptacles.

Ms. Frizzell questioned the height of the adjacent building to the west, for which Mr. Kennedy did not have a number, but instead referred to photographs of the existing buildings, which were then marked into evidence as Exhibit A-11.

Ms. Tell questioned the height of the understory and whether the intended synthetic grass fill was impervious.

Mr. Furze questioned where the ridge of the existing Shopper's Wharf was relative to what is being proposed, to which Mr. Kennedy indicated there was a survey bridge height of Shopper's Wharf that was provided as an attachment to the application. The roof peak was Elevation 34. That was not 34 above, that was an elevation.

Ms. Frizzell clarified Elevation 34 means it is 31.3 feet above grade, the 34 feet being from the sea level to the ridge, and the grade is at 2.7. Mr. Kennedy said the grade at the center line of the street references it as 3. Ms. Frizzell asked if therefore the ridge above the ground is 31 feet, and Mr. Kennedy said above the center line of the street.

Ms. Frizzell wanted to clarify her math so asked if the proposed building is 40.2 feet above the BFE -- we are allowed 33.5, so the proposed building is 7.7 feet higher than what is allowed, and they've gone roughly 3.7 feet higher than what is minimum for the finished floor. Mr. Kennedy said that was correct, the lot has 80-89 on it, so Ms. Frizzell stated it is 2.7 feet higher than the minimum required and Mr. Kennedy agreed, saying it is a split zone and 89 clips the building.

James J. Monteforte, licensed architect, 733 Route 35, Neptune, NJ was sworn in by Mr. Zabarsky.

Mr. Monteforte testified he reviewed the site plan and application, as well as visited the site. He referred to Exhibit A3 to describe the ground floor. Though the floor elevation is 9, they don't want to build at 9 because the storm was probably at 10.6 or similar. To keep structural members out of the water and harm's way, an additional 3 feet puts it at 12 and they are proposing 12.7. The advantage of this is the public space being picked up underneath the building and the opening up of the bottom of the building to see through the first floor out to the lake. The proposed interior would have 4 shops, an elevator in the center of the building with emergency stair and an access stair in the building's center. It would have public rest rooms across from the elevator core and then you could walk down through to the reception area of the restaurant which would be back on the water side of the building. He expounded on cantilevering a deck towards the east on Scow Ditch, storage units for the stores and office and storage space for the restaurant, an unrecognizable mechanical pit on the outside center of the building, recessed down on a 5-6 foot flat roof lower than the actual ridge height of the building.

Mr. Furze questioned if all would be under the roof line, to which Mr. Monteforte responded it is sunken, a parapet, with a cut-out into the roof. He designed it to drop down 6 feet and be disguised in the roof lines. There ensued a discussion among Mr. Monteforte, Mr. Furze and Ms. Frizzell, whereby Mr. Monteforte referred to Exhibit A-12, the color rendering of the structure, which showed 2 ridges, one running east/west and another running north/south, with an illusion of a ridge.

Mr. Monteforte detailed the first floor, the cantilevered balcony, the French doors and windows to the shops, rear level of decks up to the apartment level, the recessed covered porch in the front with a railing on top, and the simulated French balcony that looks down over the center entrance and arched opening. The French balcony is not real, there are no windows behind it and no access to it. He detailed the stained exterior cedar shakes and the seashore-style roof pitch.

Mr. Furze questioned means of egress; if living in an apartment, you would have to go underneath the building to the middle of the building to catch the elevator, or stairs on the north side with a gate on it, and the possibility that someone on the restaurant's balcony could get in your way so you would have to go up to the open deck. Mr. Monteforte clarified that is for emergency purposes only and would be an easy, self-closing gate. He further stated the

apartment renters would know ahead of time they have to walk to the elevator and they have access to the floors.

Further clarifications were made as to the 120 foot staircase, A-2 use and sprinklers.

Mr. Furze questioned the tenant use of the restaurant back deck, whether a band would use it and Ms. Frizzell questioned if the deck would have additional seating in addition to the 66-seat restaurant. Mr. Monteforte could not speak as to the deck use seeing as how there is not currently a tenant and stated that there would be additional seats on the balcony/deck. Mr. Furze expressed concern as to noise control, trash removal and deliveries, the patrolling and viewing of the underside for safety, always a concern especially for the Police Department.

Ms. Tell questioned keeping the 2 stone walls open to which Mr. Monteforte replied they could do that, adding 2 more arches to enhance vision from the road. Ms. Tell then re-referenced Ms. Frizzell's questions regarding the roof line, and whether the purpose was to hide the mechanicals to create a better aesthetic from the street. Mr. Monteforte agreed you would not see any mechanicals on site at all. Ms. Frizzell then questioned if a lower roof pitch would be possible, and Mr. Monteforte agreed he would look into that; maybe a little bit because the more you bring it down, the more you lose head room. Ms. Frizzell offered a compromise to raise the plate and lower the pitch so they would not be 7 feet higher than need be.

Mr. Furze expressed concern regarding security insofar as bringing the public down the center of the building to access public space in the back, i.e., inviting people who have no business with the apartments to go through that area 24/7 unless it is closed off which is not possible due to egress. Mr. Monteforte stated they could provide a gate to be closed at night and security cameras, and could key an elevator. He could put a gate off the front and secure the other side of the building.

Ms. Tell revisited the staining of the cedar shakes, wanting to know if that was for longevity, aesthetics or something else. Mr. Monteforte said it was for the aesthetics; his client preferred a natural feeling shake, more of a shingle-style feeling of which we are seeing more in the shore area.

John Rea, president of McDonough & Rea Associates, Traffic and Transportation Engineers, 1431 Lakewood Road, Manasquan, NJ was sworn in by Mr. Zabarsky.

Mr. Rea testified he reviewed the application and visited the site on several occasions. Per our Ordinance, the overall parking demand is 26 spaces for all of the uses and they have not provided any on-site parking. He inventoried the existing parking in Bay Head's central business district on Bridge Avenue between Lake Avenue to the east, Club Drive and Park Avenue to the west. He determined that between the municipal and public facilities, not including the parking spaces adjacent to Centennial Park, there is a minimum of 150 parking spaces within a 2 minute walk of the facility. Some are restricted to 2 hour parking, mostly in the prime spaces in front of the shops and stores on Bridge Avenue. He testified he felt there is clearly enough public parking to support their use.

Ms. Frizzell questioned the possibility of adding an additional 30 seats on the back deck behind the restaurant and how many additional parking spaces that might require. Mr. Rea said it could generate the need for an additional 7 or 8 spaces, possibly less, and that would be seasonal. He was trying to condense everything into a 2 minute walk but as in Red Bank, people are willing to walk more than 2 minutes to get to a good restaurant.

Ms. Tell inquired as to bicycle parking, to which Mr. Rea turned the question over to Mr. Monteforte. Mr. Monteforte felt that could be under the deck of the building before you get into the covered porch.

Christine Ann Nazzaro-Cofone, licensed professional planner with Cofone Consulting Group, 125 Half Mile Road, Red Bank, NJ was sworn in by Mr. Zabarsky.

Ms. Nazzaro-Cofone testified she visited the site and reviewed the application, the Ordinance, the Master Plan and all the submission documents. She stated they are seeking variance relief both C & D. They need three D variances in conjunction with this application. She outlined the need for the D-3 density variance. She referred to the 7 bulk variances Mr. Kennedy testified earlier which although non-conforming, are all being improved, in addition to 7 other bulk variance. These would be for the maximum building coverage, maximum impervious coverage, minimum side yard setback, minimum side front yard setback for the ramps and stairs, minimum number of parking spaces, minimum number of loading spaces and the variance as to storefronts.

Ms. Nazzaro-Cofone referred to Exhibit A-3, the architectural plans, and more specifically, the 4 separate retail spaces ranging in size from 300 to 431 square feet. There is in excess of 500 square feet total for the 4 separate spaces. If the Board interprets that 1 retail space must have 500 square feet, then they are requesting a variance from the Board.

Referring to Mr. Rea's testimony, she felt there is availability of parking in close physical proximity which is both convenient and accessible to this property.

A "D" variance request is for the use of a restaurant which does not meet the conditions of the Ordinance. Another "D" variance is for 3 apartments. The ordinance only permits 1 apartment above a commercial use. The applicant is seeking relief from the Ordinance requirements for that residential use.

As to the density variance, Ms. Nazzaro-Cofone stated that the subject property is a suitable location. She referred to the 2nd floor plan showing 3 apartments. Two of which are one (1) bedroom apartments, 920 and 926 square feet; and the third is a two (2) bedroom apartment approximately 1,137 square feet. The next-door property owner has one 3 bedroom apartment above it, the Cheese & Bottle Shop has 2 residential units above it, and the Tangerine Boutique has 1 apartment above. She testified she did not feel the 3 small apartments proposed by the applicant are inconsistent with the character of the area, or unable to be absorbed into the area, and certainly the site would be able to accommodate the excess density. Similarly with parking for the restaurant, there is greater availability and proximity of both on-street and municipal parking.

Ms. Nazzaro-Cofone next addressed the “D” variance for height, referring to the raised BFE after Hurricane Sandy. She outlined some of the criteria such as promoting the general welfare, sufficient space in appropriate locations for a variety of uses, minimum lot areas, a desirable visual environment, creative development techniques, and securing safety from fire, flood, panic and other natural and man-made disasters. She asked the Board to find the benefits outweigh the detriment, believing there is no substantial detriment to the public good if, in fact, the variances are granted. She further went on to state that this structure is taller than the one to the west but the Board should look at the benefits to be achieved through the revitalization of this particular property, one of the largest properties in downtown, and the fact they are going to provide public access and get the structure out of the floodways.

In referencing the C variances, Ms. Nazzaro-Cofone felt in 7 of those variances, they are asking for bulk requirements relating to setbacks of the principal structure and in so doing, are making the situation better. Based upon the elevations, the building will have great curb appeal and be architecturally compatible with other buildings in the area. In referencing the Master Plan last re-examined in 2007, the goals and objectives were to promote existing B-1 general business zones and generate new businesses within the downtown. It recommends that businesses encourage employees to park in the municipal lot to allow for a limited number of on-street patron parking spots. The applicant suggests that mixed-use buildings is consistent with the Master Plan’s vision of encouraging new businesses in the downtown.

Ms. Tell inquired as to 80% impervious coverage, but that the grass is pervious so she didn’t understand the calculation. Mr. Furze said it is under the building, and Ms. Frizzell said it will be able to percolate water but it doesn’t meet the letter of the Ordinance, it more than meets the intent. Ms. Nazzaro-Cofone conceded it was a fair point and that that was correct, it is 80.8% they are seeking versus the Ordinance requirement of 75%.

Mr. Furze asked if there was any public comment.

Joe Tedesco stated he is a member of the Bay Head Fire Company and was there to represent Fred (Applegate).

Mr. Tedesco questioned Mr. Monteforte about any plans within his designs for sprinklers in the building. Mr. Kennedy responded the building will be fully sprinklered.

Mr. Tedesco wanted to know if that also included the attic, to which Mr. Kennedy responded yes. The speaker stated that due to the length of the building, there are many times they can’t fight a fire from the front; it pays for them to enter through the rear or vice-versa. He requested a dry pipe designed for under the building where they could charge the dry pipe line in the front, thus allowing for a water supply in the rear. Mr. Kennedy indicated it could be in the middle of the back.

Another speaker inquired as to the breakaway windows in the attic with ventilation concerns due to the pitch of the roof. Mr. Kennedy said they could look into the Code and at the distance of the neighboring property and whether they are allowed to have windows. He indicated they will have ventilation in the attic and access to the flat roof, the front is grated and therefore you can

get up and then onto the roof through the hatch, and stated from there we can have access points into the attic.

Mr. Furze asked if the covered deck on the front door would require sprinklers as well due to the habitable space above it and was assured by Mr. Kennedy that it does.

Bob Dawson, 76 Bridge Avenue, indicated he and his wife Winnie own the building directly alongside the applicant's property to the west side. He was sworn in by Mr. Zabarsky.

He felt there was a severe detriment to them. He has a 3 bedroom apartment upstairs, with his daughter as the tenant in it. He said the applicant mentioned a non-conforming cottage in the rear, which building has been there for about 100 years. He said 20 or 30 years ago he and his wife received a variance for change from commercial to residential. They raised the building, keeping it in the same footprint. They do not feel it is an applicable location for a restaurant of this size, especially with a proposed liquor license. They feel the requested size of the structure, which is nearly twice their height, is immense compared to their building and will dwarf their building. They are concerned with the 1 foot separating the eaves of the 2 buildings, especially in case of snowfall. He and his wife feel they won't be able to get out of the back.

Further concerns were the plans to extend the applicant's building 10 feet beyond where the Dawsons' commercial/residential building is and an added 3rd floor deck would extend it further beyond their cottage. This would destroy the view from a residential standpoint. He further expressed concerns about hours of operation if there is a liquor license issued to the potential restaurant tenant. Additionally, there are concerns about the frequency of trash removal and parking.

There were several additional speakers from the audience with questions ranging from parking spaces; whether the bulkhead part is part of the variance, and what the height of the proposed bulkhead would be; whether if the variance is permitted and access for the public to the water is allowed, was there a provision in granting the variance that can't be withdrawn at some point in the future for permission to public water access, and a tenant in the cottage questioned their privacy.

Winifred Dawson, 76 Bridge Avenue, was sworn in by Mr. Zabarsky.

Mrs. Dawson expressed concerns as to the public's access to the water day and night, the noise level and the proposed bike rack. She said they use the alley between buildings to get to the rear cottage and people lean their bikes against the wall of their house if they don't have a kickstand.

There being no further public comment, Mr. Furze polled the Board members.

Mr. Petrillo, while in favor of the proposal, felt the Board should limit use as to the outside porch for dining until the type of restaurant and activity are known. The applicant can come back for additional approval at a later date.

Mrs. Wintersteen stated she would be in favor, but did express concerns about public access underneath as well as type of restaurant and their hours of operation.

Mrs. Tell was in favor. Her concerns are the applicant should do the dry pipe, that the pervious coverage remain pervious, the proposed walls on the Bridge Avenue side be removed as they are too fortress-like, she'd like to see natural versus stained cedar shakes, a commitment to daily trash pick-up, bike parking be provided on the understory, and if there are many concerns about the open deck, the Board could limit to no outdoor dining after 10 p.m.

Mr. Furze was generally in favor and feels the area needs gentrification.

Ms. Frizzell agreed with everything said so far. She also would like to limit the hours of operation until the tenant for the restaurant is in place, as well as if a liquor license will be involved. She agreed with the bicycle parking, appropriate trash pick-up, and would like to make sure public access cannot be removed.

Mr. Convey was enthusiastically in favor of the application with the single caveat regarding the hours and restaurant use.

Mr. Harrington was in favor of the application, and felt it followed very nicely the revisions made to the 2007 Master Plan.

Mr. Zabarsky had questions regarding hours of operation of the restaurant. Ms. Tell suggested parameters such as no outside dining after 9 p.m. and trash pick-up could never be before 8 a.m. If the applicant would like those relaxed, they could come back at a later date. He clarified with applicant's attorney there would be a private easement for public access underneath the building.

A motion was made by Mrs. Tell and seconded by Mr. Petrillo to approve the application with the conditions as stated on the record for preliminary and site plan approval with both bulk and use variances as testified to.

Roll Call: YEAS: William Furze, Verity Frizzell, Kathleen Tell, Peter Harrington, Bart Petrillo, Edward Convey, Kathleen Wintersteen.

Absent: Mayor Curtis, William Tubbs

Recused: Brian Magory, Patricia Wojcik, Robert Hein

Mr. Furze stated that the Board had an **Informal Hearing** for 683 Lake Avenue for H. Sandy Brown.

Sandy Brown wanted to talk about improvements she can make to her property and requested her brother, Andy Brown, who is a local contractor, be allowed to speak on her behalf.

Mr. Brown stated they are debating whether or not to build a new home. The building is compromised in a few ways, therefore they would like to rebuild. Past additions were not done with the same care they should have been. The building needs too much structural work to bring it into meaningful shape. The property is undersized. If the building comes down, they would have to offer to the neighbors and they clearly expect to do so. He wanted to know if it be feasible for them to come back to ask for a number of variances because the lot is so undersized. Currently it's a 39 foot wide lot. The width of the house would resemble a railroad car. They are looking for a number of bulk variances in keeping with the fact that the lot is undersized. Current side yard setbacks are approximately 1.2 and 2 feet. They would expand the side yard setbacks and reduce the amount of total building coverage. If the Board frowns upon this, they

need to go back to the renovation process. If the Board would favor this, they hope to build a Bay Head Dutch colonial-designed home in a smaller footprint than the current home and with somewhat larger setbacks, but not with the ability to go to the full setbacks required by Zoning Laws.

They would like to ask for 2 variances: One for the bulk variance for the width of the lot and the second for the side yard setback variance. There may be some additional architectural ones generated but nothing that wouldn't enhance the living space.

Mr. Furze requested the intention for the house elevation and where it is now. Mr. Brown stated the intent was to keep it within the standards. The flood elevation is not conforming right now, they are in an A8.

Mr. Brown stated they could move the house back and conform with the front and the rear as they would like to create some off-street parking which they don't currently have.

Mr. Petrillo confirmed there is no way they can meet the side yards and Ms. Frizzell and Ms. Wintersteen concurred.

Mr. Furze questioned whether Ms. Brown has evaluated to what extent the damages incurred are and Mr. Brown answered in order to re-do structurally, it's going to take a lot. Ms. Brown stated the house's first floor is gutted as they had the intention to renovate, but when looking at the structure and the lack of beams in certain locations, it became too complicated. Mr. Brown stated the supporting walls have no support underneath because of the many additions.

Mr. Furze questioned floor elevation because of other happenings in town and non-conforming setbacks.

Ms. Wojcik questioned how far back they would be insofar as it related to the neighbor behind Ms. Brown's location.

Mr. Furze asked if any members had any questions.

Mr. Petrillo stated if you move it back, you're going to meet the front and rear setbacks, not really having any choice on the sides; that if Ms. Brown did the best she could as far as reducing it, he wouldn't have a problem with approving it.

Mr. Furze stated he would have no problem with elevating the house to a greater extent than it is now and not diminish the existing yards as the neighbors have gotten used to that.

Mr. Brown stated he is assuming they have to meet the ABFE's "plus 1" and their expectation is to be at that level, at least within half a foot. The advantage with the Dutch colonial-style roof is you can bring the top down so the building itself is more in keeping with the area.

Ms. Brown explained the 2 pictures submitted with her letter.

Mr. Furze stated his opinion was the design is bulky to which Mr. Brown explained the only advantage is you keep the roofline low so its not overly imposing from the street, and so the side yard setbacks would get closer to 8 or 9. He stated they can do other designs also.

Ms. Frizzell suggested they keep in mind that the closer they get to the side yards, the less windows they can have so they might want to make sure they meet the fire separation distances for the building code.

Mr. Furze had a discussion with Mr. Brown and Ms. Brown regarding the lot lines in that they are perpendicular to the street.

Ms. Tell expressed concern that if the house is pushed back, the neighbor to the north will have less privacy, so that is something to keep an eye on.

Mr. Meyers, a neighbor, encouraged the Board to not require the rebuilding of the home on the current footprint. He said because it has been added onto so many times, it is not aesthetically appealing. As a neighbor, he has no objections to the plans desired by Ms. Brown.

Mr. Furze brought up **New Business**.

Ms. Judy Davis came forward. Mr. Furze mentioned he didn't recall seeing anything on her architectural plans about a sign for the building. In fact, long ago before Mr. Petrillo called this to the Board's attention, he was out walking his dog and saw the pediment going up with the felt paper on it and didn't recall a pediment on the roofline either. He conceded he may be wrong.

Ms. Davis said she did include the drawings with the art with her letter and went back and forth as to whether to go with that, and was persuaded for the historic value to go ahead and do it. She has surmised she will probably need a variance. She thought her intent was clear with the pictures at the top.

Mr. Furze said he didn't recall any conversation about that.

Ms. Davis apologized and said she understands. In her letter she is requesting another way to do it to avoid the expense of going through a variance procedure and wondered if that was a possibility to amend the original variance.

Ms. Tell indicated she checked with Mr. Zabarsky who informed her the Board lacks the legal authority to do so. When the Board adopts a Resolution it must be very specific. It's not a matter of discretion.

Ms. Davis requested a quick informal hearing to avoid the cost if the Board doesn't feel she has a chance of passing, and requested if they could give an indication right now.

Mr. Petrillo stated it is considered additional signage by our definition of signage; it's not advertising anything or any businesses in the building but is drawing attention to the building, and is to be calculated into the allowed signage of the building. With those letters, Ms. Davis is over her signage and would need a variance for the signage.

Ms. Frizzell asked if when you are calculating the area for the signage, you're talking about the area of a rectangle around the letters, or were they talking about the area around the whole fascia, the pediment, as part of that is an architectural feature.

Mr. Petrillo said you're measuring the actual letters and Ms. Davis indicated it doesn't make any sense to her about a Dutch gable but that was what was specified to her.

Mr. Petrillo said you would have to actually measure the size of the letters themselves to get the area of the sign.

Ms. Tell asked Ms. Davis if she knew what the letter dimensions were, and she replied she did not and asked if that would have to be within the 15 feet.

Mr. Petrillo said she is over-signage, and there are 4 businesses in there that also have signs and you are only allowed so much signage for each 50 feet; if you have a 50 foot building, you're allowed 15 square feet and if you have an additional 50 feet, you're allowed another 10 square feet. In Ms. Davis' building, where she's on a corner, she's adding additional because of the frontage on Lake Avenue and Mount Street.

Ms. Tell wanted clarification on the Ordinance. Ms. Davis wants historic and decorative and doesn't know how to get it to apply if the tenants are taking up space. Mr. Petrillo doesn't have a problem with it, thinks it looks fine, but there were complaints made so the Board has to hear it to decide.

A member of the audience stated he didn't object to the style of the sign but the Board's predecessors put in the Code, 148, which says 15 square feet. This is a new sign, not a replication of anything there previously. He didn't object to the pediment which architecturally looks good on the building. He objects on the basis the variance should not be approved because it doesn't meet the Code. If the Board wants to re-write the Code, they should re-write the Code. This is not a good precedence for the Board to allow signs of that size in the town.

Mr. Furze shared others have complained about lack of consequences or fines for what others have done that wasn't allowed by Land Use. He suggested Ms. Davis come before the Board for a variance.

Ms. Davis said she will do that. She feels there is an historic basis for this type of sign for this particular building.

A motion was made by Mr. Hein and seconded by Kathleen Wintersteen to approve the **vouchers**. All in favor.

The meeting adjourned on a motion by Ms. Frizzell and seconded by Ms. Wojcik. All in favor.

Respectfully Submitted,

Claire S. Hense