

EDWARD G. DONOVAN
Mayor

CONSTRUCTION DEPARTMENT

FRANK DIROMA
Supervisor of Code Enforcement

THOMAS F. FLARITY
Municipal Administrator

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

ALBERT "SANDY" RATZ
Construction Official

The Manasquan Planning Board held a regular meeting on Tuesday, February 5, 2019 at 7PM in the Borough Hall, 201 East Main Street, Manasquan, New Jersey.

Everyone present stood and saluted the Flag.

ROLL CALL:

Board Members Present:

Mayor Edward Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Neil Hamilton, John Burke

Board Members Absent:

Councilman Mike Mangan, Kevin Thompson, Leonard Sullivan, Peter Ragan, Mark Larkin, and Barbara Ilaria (Mayor's Alternate)

Professionals Present:

Albert D. Yodakis – Engineer – BORO Engineering
George D. McGill – Planning Board Attorney

George McGill read the Open Public Sunshine Law in its entirety.

George gave Greg Love the Oath of Office for the year 2019.

Robert Young made a motion to approve the minutes of January 8, 2019 regular and re-organization meeting, seconded by Mark Apostolou, all in favor none opposed.

Robert Young made a motion to approve the vouchers, seconded by Mark Apostolou.

Board Members Voting to approve:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Neil Hamilton, John Burke

RESOLUTION #10-2019 – South Street Enterprises, LLC – 75 Main Street, this was a Use Variance, Robert Young made a motion to approve, seconded by John Muly.

Board Members Voting Yes:

John Muly, Robert Young, Neil Hamilton and John Burke

Board Members Abstaining:

Mayor Donovan, Greg Love, Mark Apostolou who voted no on the application.

Neil said on the agenda this evening we have a presentation from Jennifer Beahm, the Borough Planner, she is the COAH expert, there will be Ordinances drafted to go to the Borough Council and the Planning Board will have a special meeting scheduled for February 20, 2019 a Wednesday at 4PM. The purpose of that meeting will be a presentation by Jennifer to explain the Ordinances as presented to the Council, she will be looking for support from the Planning

Board so they can be sent back to the Council so they can proceed on for adoption. Board members keep that on your agenda.

Neil asked Attorney Roger McLaughlin to come forward with regard to Application #27-2018 – Mallue's Auto Body – 53 Atlantic Avenue – he said in talking this afternoon to Mr. McGill it turned out they had a notice issue although everyone on the notice list was properly served and notified. The County was not and this property is on Atlantic Avenue which is a County Road so the Board will not be able to take jurisdiction. We ask if we could be moved to the next available date without the necessity of notice except for the County. This will be moved to the March 5, 2019 meeting. George McGill told Mr. McLaughlin he will have to provide full notice. Neil said if anyone is present in the audience for that application make note it is changed to March 5.

APPLICATION #19-2018 – DaCruz, Janet, 32 Rogers Avenue – Block: 157 – Lot: 39.05 – Zone: R-2 – George asked if anyone in the audience is present for this application. He said let the record reflect that there are people in the audience, none of them have responded that they are here for the DaCruz application. He told the Chairman that the applicant is not here, there is thankfully no one from the public here for this application, let's just bump that down the agenda to the end and sit here and see if the attorney or the applicant shows up. Mark Apostolou asked if for purposes of an appeal, you received an e mail. George said yes I will go into that, at 5 o'clock this evening he received a letter and he believes it was sent to Mary Salerno our secretary as well requesting an adjournment. The letter indicated that they did not have the plans prepared that they had hoped to have prepared. For the record, back on January 8, 2019 that applicant was before the Board, the attorney for the applicant was before the Board the applicant was in the hospital at that point. They came before us, we took a little testimony from an objector and at that time we had asked that the applicant get all her plans before us, ten (10) days before this meeting and they agreed to do that. They also agreed to send to Al Yodakis our Engineer certification as to the height of the first floor of the structure. For the record, Al is shaking his head no. We don't have that either. The applicant's attorney stated that he was going to provide full notice to everybody in reference to this meeting tonight and they haven't done so. They have done nothing since January 8th which George noted was carried from November 2018. Let the record reflect that Mr. Luttrell is here. It is 7:12PM. Mr. Luttrell came to the microphone stating he requested an adjournment, we don't have the additional drawings done and he was told he had to appear. George McGill said the last time that you were here you said you were going to have those drawings here by tonight, ten (10) days in advance. Mr. Luttrell said he was going to make his best efforts to have them here, he is not in control of the drawings counselor. Mr. McGill said you also indicated that you were going to have certification for Al Yodakis as to the first floor elevation. Mr. Luttrell said the Flood Elevation Certificate? Mark Apostolou said Al went over that it's contained in the minutes. Bob Young said no, we wanted to know what the elevation was of the finished first floor. Mr. Luttrell said that's on the elevation certificate. Mark Apostolou said yes but it's not contained in yours. Al said he gave us a height elevation which gave us to the ridge height of the roof, what we asked for is for a Flood elevation certificate. Mr. Luttrell said the certificate that we have is a pre-Sandy or pre-lift, we do not have a post Sandy elevation certificate. Mr. McGill said that's what Al asked for the last time you were here. Mr. Luttrell said I understand that but I knew I had a flood elevation certificate I don't have an elevation certificate post Sandy, post her lifting of the

house. George McGill said did you understand what he was asking for the last time? Mr. Luttrell said I did, I knew we had an elevation certificate, my understanding was I thought we had a post her lifting the house up. Apparently that's not the one we do have there's only a pre-lift elevation certificate which shows that the house is 6-inches below the BFE, it should be a foot. George McGill said ok you found out you didn't have it. Mr. Luttrell said I instructed my client she needs to go ahead and obtain that and obviously she can do that also with the engineer she is going to retain to do that. Mr. Stockton is going to be the engineer. Mr. McGill said so what kind of time table are we looking at on that? Mr. Luttrell said I'm hoping to have it before the next meeting. Neil said that doesn't satisfy me. Mr. Luttrell said I understand the Board's frustration; my client has to pay me \$1000. Every time I have to come here, it's not unheard of to ask for adjournments when different things come up. I don't think I'm new and unique in that regard, I'm not trying to do anything here other than please this Board and try to make whatever accommodations are necessary in order to get my client to be able to use her home again and get a C/O, she hasn't been in the house. George said she hasn't been living there? Mr. Luttrell said no she got cited for ~~not~~ living there, we have a pending criminal case for her trying to live in her house so she wasn't homeless. Now she can't live in the house, I don't know of anyone else in Manasquan who has been displaced out of their home any longer than Janet DaCruz. Neil said he doesn't know that's the fault of this board. Mr. Luttrell said I'm not blaming the board; I understand this board's frustration. I wasn't here on the first application, but what has happened was a presentation for my client to elevate the home and the height had to be higher than the requisite at the time and then she withdrew that application with the understanding she was going to cut the roof down. She then paid a contractor to do exactly what she represented to this board to do, that contractor took REM grant money and basically did half the work, split with all the money and did not lower the roof down and so now my client was left holding the bag without any recourse whatsoever other than to come back to this board and renew the same application that she had originally which is I have a handicap I had an elevator pre-Sandy when this house was built and I want to continue to use that elevator without having to lower my house down or cut the top of the roof off. That's the application that we are going to bring, the last time I was here I indicated to this board, we are going to modify the application. We are essentially going to remove the detached garage, that's no longer an issue, we are going to narrow down the driveway opening to the requisite 12-foot so it's directly behind the attached garage rather than 8 or 9-feet over from where the detached garage is. So, that only limits us down to the height variance, but I needed to get new drawings in order to obviously reference that the detached garage is going to be removed, that the curb cut is going to be removed, because those were requested at the last hearing. I can't control when those documents are prepared. It's not unheard of to request additional time on that. I defer to this board on whether I'm going to be granted that time. But, I'm here advocating representing my client, I'm here because I was told I had to be here even though we requested the adjournment. George McGill said right but the adjournment was at the last hour, it wasn't days before, you didn't find out at 5 o'clock today that you didn't have the plans or you shouldn't have. So, given the history of this matter, that's why you are in front of us and I just want to be clear. Your matter is a little different in that it's already built. I understand when people want to build something, they want to move it, it's the biggest problem with clients in Land Use is getting in front of the board and everybody is anxious to get there. I was operating under the assumption that you are already built and you don't have that kind of time requirement but you are telling me tonight that Ms. DaCruz has not been living in that house this entire time. Mr. Luttrell said she is not living in the house, she is

there during the day because work still needs to be done as far as the C/O is concerned, she is told she can still work out of the house during the day, she cannot reside or sleep in that house overnight, that's what she has been informed. I have instructed my client in the Municipal Court case she is not to be living in the house overnight, that's the whole purpose of why the C/O was filed. Mr. McGill said you instructed her and she hasn't been. Mr. Luttrell said in fairness I live in Holmdel; I don't know what Ms. DaCruz does other than what she represents to me. I can represent to this board that Ms. DaCruz has represented to me she is not residing in the house. George said fair enough, and what is the status of the Municipal Court matter? Mr. Luttrell said that matter is being carried pending the outcome of this hearing so I have a lot of things Ms. DaCruz has up in the air. I want this over as quickly as possible as I assume this board does, but the underlining issue is Ms. DaCruz has REM grant money that requires her to have a C/O otherwise she has to pay the money back. She has been given multiple extensions, the latest extension is now through October 1, 2019. I have a lot of things that need to be done for Ms. DaCruz, I am trying my best in order to accomplish that, if I can certify and do the drawings myself to any adequacy I would have done that so we can have this over and done. I don't have control of that aspect of it. George McGill said the plans aren't to the principal dwelling but to the rear garage I suppose. Mr. Luttrell said correct, the only thing that I asked in addition to that was to show an elevation which would depict how the structure would look if the roof is cut down. The Board would have the benefit of comparing apples to apples saying ok this is what the structure would look like, it would look like nothing else in the neighborhood or anywhere else in Manasquan, it will basically have 3-feet of its peak cut off the top. Mark Apostolou said the last time that was a discussion the last time as to Structural Engineer verses Architect and I know that Mr. Amelchenko who was the individual who represented Ms. DaCruz at that prior hearing of which we have the transcript of was not available because he was a snowbird, now that it's being adjourned can we get Mr. Amelchenko here because you said you were only going to be producing the structural engineer and we thought it would be best that an architect give the rendering of the structure and the like. Mr. Luttrell said he wants nothing more than to please this board and present everything, he thinks everything this board has asked for that was in his power and control to do he has done. I will ask Mr. Amelchenko if he will be back and if he is that my client have him present. Neil said do we really need him, if they go get another architect do we need him. Plans have been submitted to the Construction Department for lowering the roof but there are no numbers on them. So the plans are basically useless. Mr. Luttrell said so what has happened is my client had the structural engineer issue drawings for what would need to be done for the roof to be lowered if this application had failed. At the end of the day my client needs to weigh on one hand what it would cost to oppose it verses just paying to do it. The structural engineer prepared those they were submitted, she actually paid a contractor in order to go ahead and put in the application to have that. I explained to my client she needs to burn the wick at both ends at this end because if it fails you need to be prepared to lower this roof. Ultimately, the building department said I need to know something in regard to the type of material being used, that's what my understanding is why those drawings weren't accepted. There is a notation on the drawing by the structural engineer materials to be chosen by architect. I'm fully prepared when this board hears what the story is as to why this ended up where it's at, there will be logical conclusions drawn and an understanding as to how it got here. It was not a thumbing of the nose at this board and I'm going to do whatever I want and so on and so forth, that would have been beyond suicidal because at the end of the day she can't get a C/O this is effectively the only thing holding that up right now. Our intention was to have Mr. Andrew

Stockton who for all intents and purposes is a Planner, he's a Surveyor and an Engineer. That's who I had my client retain in order to go ahead and get the additional drawings here. Neil said if you are going to get a quality licensed individual to do the drawings and present them on his license I don't know that we need to have Mr. Amelchenko back in here. The whole point is, we're not in the construction business so if we say the height can only be this then you have to submit your plans to be approved by the construction department, it's not for us to look over the plans, it's none of our business. I just want to know what the height is. Neil said our problem goes here, we had a no show on your application the month before, then last month you came in and she had her medical issues, that again was carried, so now we are carried again and now we are asking for another continuation. In the meantime, we've got people out there who want to put on additions, they need to get everything in order for the Spring, we are pushing them off because we're full. You are not being fair to the Board and you are not being fair to the other applicants in Manasquan. This thing has gone on so long, frankly I'm sick and tired of it. I don't know where you are going, you have a big mountain to climb. My only suggestion is we are full next month, if you don't mind staying an extra hour I would just as soon bring them in, you have to guarantee us sir you will be here with your professionals and have this thing ready to go, we can't take another adjournment. Mr. Luttrell said you can carry to April I won't have an issue with that. Mark Apostolou said for due process he feels the best thing is to put it to April it gives him plenty of time to get all his ducks in order. He will re-notice for April 2, 2019 at 7PM.

APPLICATION #11-2019 – Shadlum, Evan – 539 Brielle Road – Block: 191 – Lot: 12 – Zone: R-5 – This notice is correct so the Board accepted jurisdiction. Keith Henderson is the attorney representing the applicant who was sworn in, Evan Shadlum is the owner/applicant. The second witness is Sally Shadlum, the architect who designed the plans. The lot is in Flood Zone AE; it has a BFE of 9-feet. The elevation of the lot is 2.9-feet in places, the average is probably 3.5-feet so when you attempt to drive up Brielle Road at high tide and you see the water everywhere, that's the reason. Keith said there were a number of denial letters issued, the last one eliminated the dormer variance. Mr. Shadlum acquired the property on October 18, 2018. He was born and raised in Manasquan. He proposes to demolish the existing structure and construct a new two and one-half story single-family home on the existing lot. He is proposing to live in that house himself. Next, Keith had Sally Shadlum testify, she is a professional architect, employed by the City of Jersey City. She is a professional architect for them and a project manager for projects they assign her. She prepared the plans for this property. They meet all the applicable building codes, they also satisfy the FEMA requirements and the hurricane Code. He had no further questions of the architect. Next, Keith said he knows the board is familiar with Brielle Road, he had a Tax Map on a board which he placed on the easel. He said this is a small neighborhood it goes from Third Avenue up on the south side of Brielle Road and contains nine (9) houses, there was a previous application on lot 14 which is on the corner for American Timber Company, that was approved with 45% building coverage. Unfortunately, for economic reasons it could never be built, American Timber Company has recently disposed of that property and maybe something will come of it. This is in the R-5 Zone so you have a 40-foot frontage requirement, if you look down the street there is one conforming lot which is lot-2. Lots 1.03, 1.04 and 3 are all owned by the County. So going down the street you have a 25-foot, 30-foot, 30, 29, 30, 30, 30, 30, 30, 31-foot lots, 48-foot, and then you go back to the other side of the County property there is just that one house that is on that side. Even though the property was designated for R-5 there isn't really any conformity at all for that Zone. In addition to that as you can see from the aerials

there is virtually no compliance with the side yard setbacks at all. Very little compliance with building coverage and in fact two of the houses in this stretch have multiple dwellings on them. There are two dwellings on two of the lots. From the applicant's perspective he's taking one of those lots, knocking down the existing structure, bottom line the applicant is willing to make the first improvement to that neighborhood. The variances required are lot frontage, building coverage, side yard setbacks, and building height, the problem is you have to lift this house up significantly because the grade on ground is so low. If you get to the BFE you have to go up a long way and that's why we are seeking a variance for height. With reference to Al Yodakis' letter the dormer variance was eliminated. George McGill asked if there are any other witnesses because he is kind of testifying here. Can the architect do that? Mr. Henderson said the architect can testify with any questions you have with respect to the plans. Neil said before you get into that dormer, before you get technical I'd rather go back to the TRC review letter and then to Al's report. George said the boards would have to be marked as Exhibits, A-1 is a Tax Map, and A-2 is the aerial view. There was a lot of discussion regarding the dormer which Keith said Mr. Furey removed from his variance list. Keith said we saw TECH reviews comment and he thinks your main concern is building coverage. If you take that property, it's unique because it's probably a mile before you get to another house, there is nothing behind there except for the park. You can see that on the aerial and on the Tax Map, so he doesn't see a negative impact. It's certainly less than what the houses with two houses on one lot have. You have to encourage investment in that area if you want to see that improved. That is really the last area in Town that has not been rebuilt since Sandy. Bob Young said from Tech's standpoint admittedly it's a small lot 27 X 100, we are also looking at the structure four bedrooms, 4 bathrooms, an office and a library. That's a lot to cram in on that lot, he thinks that was the opinion of Tech. Unfortunately, we didn't have on the plans the dimensions so it was very hard for us to determine how large each room was. Keith Henderson said the lot is 30-feet. Bob stands corrected. Keith said if you are going to encourage development in that area you have to have some flexibility. You will never have another street that's like that. You can't see from the rear of that lot, even if you are in the Park, there are no trails, you are just looking at the grass back there. It's a swamp and an occasional kayaker. Next, Al went through his report. He asked for the side setbacks and Keith said 3.1-feet on both sides. Al said the height was shown to be from the surrounding grade so actually we are asking for a three-foot height variance but you are going to be about 3 1/2-feet above top of curb the way we are measuring. Keith said the applicant is prepared to stipulate is we will not require a Use Variance, so we will not be going to go that 10%. It will be 3-feet per our Ordinance is what you are requesting. Keith said the Ordinance for a non-conforming lot is 33-feet we are asking for 36-feet. Al said 36.3 is the magic number there. George said 36.29 because you have to be under. Al addressed the other items on his report, the grading, landscaping plans, there will be some improvements, we need details for curbs, driveway, re-charge system, we will talk about that. Keith said the applicant agrees to all the comments in Al's report. The only thing is there was a comment that dealt with the tree and the driveway, we are shifting the driveway to the east side so we have plenty of room. Al said there is a utility pole there. This is number #5 in Al's report. Keith said we have plenty of parking on this lot because you can drive right through. Al said one thing, the rear deck. There is a different deck above that. Keith said it's all open, he doesn't see a problem with that. Al said the materials weren't labeled on the plans, I just want to clarify that it wasn't a covered rear deck that would be considered an encroachment. Keith said we don't have a rear yard setback issue. We will prepare the required drainage, grading, we agree with the 80 square feet of enclosed storage

space, we agree with all the other requests in Al's report. Al asked the Board if they do have high ground water that is something we typically have waived, if the Board would be comfortable with him reviewing whatever ground water tests. This was agreed that Al will be satisfied upon his review. Keith said just to summarize, he addressed the purposes of the MLU act. Mark Apostolou said he can't support it; he thinks it's too dense. He has a difficult problem with the height. John Burke said he doesn't have a problem with the height, he doesn't have a problem with the side yard but he does have a problem with the physical size of the house. Greg Love asked the elevation of the first finished floor? Evan answered 8-foot 6-inches. Keith said they would have to go to 9-feet. He agrees with the Judge, you have a brand new house, when you are building a new house in order to get a variance there has to be a hardship. You are obviously above the BFE, but to go to 2 1/2-stories and exceed the height, he thinks it's too much. Keith said the Ordinance permits 2 1/2-feet and the only way you can achieve 2 1/2 -feet is to get a variance and bear in mind that before Sandy everybody was at 35-feet and then you changed the Ordinance to go down to 33-feet. Al said that's where we are off, the heights are measured from the ground surrounding, it doesn't relate to what we're normally as measuring height from top of curb and we also don't have an elevation certificate where we could tie that .6 into sea level. Keith said and the other thing is on that road the curb is way below the crown of the road. Al said the BFE is 9 so the first floor is going to have to be at elevation 10. To get mechanicals and so underneath he has to be at 10. Evan Shadlun said if allotted he could change the plans to meet any requirement, he could shrink ceilings down, roof rafters, insulation. Mayor Donovan said he agrees, he thinks it's too high and he thinks the building coverage is excessive. Keith said in the R-5 Zone the Board has approved numerous height variances which he proceeded to name. We could come back next month very briefly; we will try to shrink the height. John Muly said he agrees with what has been said so far. Bob Young said on the plans from Ms. Shadlun it shows building coverage of 47, almost 48%, Mr. Furey's letter of January 2nd shows the building coverage at 52.1%, that's a sizable difference of over 4%. Evan said when he started this process before he hired Keith he sketched out the plans himself and that was a typo from the very beginning. Since he brought in his sister who put it in professional auto cad they shrunk it down and 47.8% is correct. Mark Apostolou made a motion to open the meeting to the public, seconded by Robert Young, all in favor none opposed. There was no public participation. Mark Apostolou made a motion to close the public portion, seconded by Robert Young, all in favor none opposed. Neil said we are trying to maintain the height and not give variances for it. I welcome you being the maverick to start the development in that area there and the dominos are going to fall. It's going to happen, it's a great Town, it's going to happen no matter what. I agree with the others number one I don't want to see the height. If we approve one they are all going to fall in line for that same height because the lots are pretty much all the same width. I want to stay with the height, I think you could cut that building coverage down slightly. There are little bungalows in that area, you are buying a small lot and I appreciate your trying to max it out but you are up to 4 bedrooms, 4 bathrooms, that's a lot to put in that square area there on that small lot. I would suggest taking the heading of the Board, try to get that height down so it complies and maybe reduce that lot coverage somewhat. Keith said we can come back next month. They requested to carry to carry to the March 5, 2019 regular meeting. John Muly asked if they really need a full bathroom on the second floor, you have a kitchen, family room, library and dining, then you have a full bath, do you really need that there, there is no bedroom. Sally Shadlun said she stacked all the bathrooms so it just made sense for economic reasons and they are all pretty much the same layout. Ms. Shadlun said the bedrooms are also very small. John

Burke made the motion to carry to March 5, seconded by Mark Apostolou, all in favor none opposed. No further notice required.

Correspondence – Neil read a letter from Tim Middleton asking for a determination of the denial from the Zoning Officer regarding Morris Avenue. George said he can appeal the decision. Dick Furey will send his file to Mary, she makes copies, sends it to us, he will have to be present at the meeting where Tim Middleton will put on an argument explaining why he believes Dick is wrong. We hear Dick's side of the story and then make a determination. Neil said he will have to file an application. George will look at the Ordinances. The Fee will be controlled by the Fee Ordinance. George said there should be escrows.

ark Apostolou made a motion to enter closed session, seconded by Robert Young all in favor none opposed.

George read Resolution #14-2019 – The Board entered executive session at 8:16PM

The Board came out of closed session and motioned to adjourn.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary C. Salerno". The signature is written in dark ink and is positioned above the printed name and title.

Mary C. Salerno
Planning Board Secretary