

The Manasquan Planning Board held a Regular meeting on Tuesday, July 10, 2012 at 7PM in the Borough Hall, 201 East Main Street, Manasquan, New Jersey. Geoffrey Cramer read the Sunshine Law Statement and then Chairman John Burke called the meeting to order and asked everyone to please stand and Salute the Flag. He then asked the Secretary to please call the roll.

ROLL CALL:

Board Members Present:

Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, Neil Hamilton, John Burke, Michael Sinneck, Leonard Sullivan, Peter Ragan, and Mark Apostolou

Board Members Absent:

Mayor George Dempsey, John Muly, and Jay Price

Professionals Present:

Geoffrey S. Cramer – Planning Board Attorney

Albert D. Yodakis – T & M Planning Board Engineer/Planner

APPLICATION #04-2012 – American China Company – 435 Long Avenue – Block: 175 – Lot: 30.01 – Zone: R-3 – John Burke said we will carry this application to the next meeting, we have not heard from the applicant about their participation tonight. Owen said you know there are certain members of the public that seem like they've been coming, month after month. Is there some point where we can say no to their request to carry? John Burke said this is not their request this is the Borough doing this. Owen McCarthy said he thinks that is unfortunate to certain members of our public who have been coming consistently to meetings. It seems like this started at the tail end of the Spring and now it's July, he feels it's a burden and we are kind of at a point where we put up or shut up, a quote from our Mayor. John Burke said this probably will never be heard and if we do not make contact with the applicant or their attorney and we do not get satisfaction from them then at the next meeting the application will be dropped. Geoff said he heard from the attorney for the applicant and they will be withdrawing the application. Lenny asked what happens with what's owed. Neil asked at what point we take some sort of action to collect what's due. Geoff said his intention is to speak to their attorney and then follow up with a letter. John Burke said they will not be able to apply for any permits or anything else until it's all taken care of. Mark Apostolou asked if a lien could be placed on the property and Geoff said he will take a look at the Ordinances with that in mind. Owen said he will speak to the Borough Attorney, Mark Kitrick regarding that matter.

APPLICATION #11-2012 – ARJHAN, LLC – Baghari, Kaz – 530 Brielle Road – Robert Clark is the attorney representing the applicant. Michael Napolitan – Architect and Planner for the applicant. They were sworn in at the last meeting. Mr. Clark started the testimony, since the applicant sought to have a single structure in two units in a single-family residential zone and there was a somewhat informal discussion with the Board and

this Board was not too excited about a multi-use on that property. A new application has been submitted to the Board, we no longer seek a Use Variance, and we are seeking approval for a number of Bulk Variances for the construction of a single structure for a one-family use. Mr. Napolitan was qualified as expert at the last hearing and he said he would go directly into the application and the Proofs necessary for what is before the Board at this juncture. We are seeking twelve (12) Bulk Variances, all of which were detailed in the Board's Engineer's most recent report dated July 9, 2012. He proceeded to go over Al's report with Mr. Napolitan addressing each statement. The proposed house is a 3-story, single-family residential unit. It's approximately 18-feet wide X 62-feet long, height 38-feet. On the first floor there is a great room, a kitchen, laundry, and bathroom. On the second floor there are three bedrooms, a bathroom and on the third floor there is a bathroom and a bedroom. There will be a two car garage, 18 X 22-feet. The Engineer's report also required a waiver be provided for Storm Water drainage. Mr. Napolitan's response to this request is there are some existing buildings on the site and one of the times he was there they did dig down to see if they could put a footing and about one-foot below the ground they hit water. That's why we can't provide any on site drainage tanks or pipes, it's just too shallow. This application gets rid of the multi-use and brings it back to a single family use in conformance with the other structures in the neighborhood, and in conformance with the Zoning Ordinance as well. Mr. Napolitan stated all the Engineer's comments on his report can be satisfied. With respect to the comment regarding the sidewalk that is there now, the applicant will replace it and put sidewalks in on both Streets. John Burke asked Al Yodakis if everything was covered on his report. Al said they did go through everything, the applicant has accurately reviewed all of the Variances that are required that were on my report. He suspects the Board may want to discuss especially a Height Variance; you have been pretty strict on that in the past. Regarding Storm Water, he notices they have a concrete walk and also the driveway material hasn't been indicated, you are also asking for a Waiver of our Storm Water Ordinance. He said he understands the high water table in this area as well as the flooding concerns, he asked if they would have a problem putting in some type of porous material, pavers or something else to reduce that Variance? Mr. Napolitan said no problem whatsoever. Al said they have agreed to everything else in his report. John Burke told the attorney for the applicant that he doesn't like the height. We have had 25-wide properties in this Town that houses have been built and usually if the property does not meet all the requirements of the area we usually require the house to come down shorter, not go three feet higher. Usually if a house is on a 25-foot wide property we will grant 30 or 32-feet maximum. I do not like the height at all. Mr. Napolitan said they could come down to 35-feet, so we would meet the Ordinance. Leonard Sullivan said the Ordinance is for a conforming lot. Leonard Sullivan said he agrees, he would be more inclined to approve a 30-foot high house. Neil Hamilton said he would agree, we have had applications in the past dealing with 25-foot wide lots, we have a booklet upstairs that shows those structures and how they have accommodated the different Ordinances. We can deal with the Bulks but before we go any further with this application tonight you may want to poll the Board to see what the height is going to be and I would agree with Mr. Sullivan, 30-feet would be my max. Pat Callahan said he would concur with that. Mark Apostolou said his question is to the expert, Mr. Napolitan, you stated that you did do an analysis of the other structures in the neighborhood, how many of them have building heights that exceed that you are aware of?

Mr. Napolitan said he knows the house across the Street is more than 35-feet. He determined this just by eyeing the house. Neil said this Board has not approved homes in excess of 35-feet. We have not done that and the one directly across the Street to the South that backs up to the park that house exceeded what the approval was by this Board and if you take a look at that house, the ridge is flat. The Construction Department made that applicant go in there and cut that ridge out, flatten that roof out to get that in compliance with our approval. John Burke said this house should be two stories, period. Part of my objection to this would be not only the 38-feet, but the three stories this should be under 35-feet, depending on what the Board thinks, 2 ½-stories. So you will have to meet the roof lines to make it a half-story not a full-story. Al Yodakis asked at the 32-feet that you are referring to what would your ceiling height be on the first and second story. Mr. Napolitan said 9.11-ft on the first floor, 8-feet on the second. Peter Ragan said he agrees with the 2 ½-stories, based on your plan if you were to just take out the third story and make it 2 ½-stories, that's 30-feet. Michael Sinneck said he is generally concerned about the height of the building and his impression from hearing the testimony tonight he thinks this would be intensely overbuilt for the area and we need to get the size of that building down. Joan Harriman agrees the height has to come down. She is not sure to 32-feet because of the flooding and everything it may have to go up a little bit. She agrees it has to be 2 ½-stories. Mark Apostolou said he thinks it's a vast improvement over what was submitted several weeks, he complimented the applicant on that. However, he agrees totally with the Board as to the height restrictions. He thinks we need to uphold the intent of the Ordinance and the Statute and he believes it should be relegated to 2 ½ stories. The other thing is water flow, which was brought up by the Mayor regarding another property; he was concerned about icing conditions over sidewalks and the like. Al said he has asked for a grading plan that was one of the items in his report just so we don't have overflow coming right over the sidewalk. Owen McCarthy said he agrees with the Judge, it is an improvement over the last plan as well as what does currently exists there. The property does face challenges because of the size but most of the properties along the Beachfront are somewhat limited by the dimensions of the property, he would agree as to what the Chairman said to the height. That is something that is very important along the Beachfront and he would be reluctant to go above that 2 ½-story height for the Beach. He said the Board has done a very good job at taking a firm approach, holding the line on that. He is in favor also of the 2 ½-stories also. Owen asked about the garage and Mr. Napolitan said it would be one-foot above grade. Owen said you will have a flooding problem in the garage and Mr. Napolitan said they will have to put some vents in there to let the water in and out. Owen said you could have a driveway, that garage is going to keep flooding. John Burke said it's not really going to be a useful garage. You will have to hang everything; you won't be able to put anything on the ground. Mr. Napolitan said his client is aware of that. John said the air conditioning units have to be out of the flood plane also, they will need to be 4-feet above the ground. John Burke said you can take time to speak to your client now that you heard the opinion of the Board. You can continue tonight if you want, if you want to be carried to next month we can do that, or we can hear the next case and you can come in right after that. Mr. Clark said he thinks where the applicant is willing to go along with a reconfiguration of the plans to submit to a 2 ½-story building he believes the height maximum that the Board has in mind is 30-feet so if we would be amenable to reconfiguring the application to go along with that, then we would want to proceed with the

balance of the application as it's been presented. So, I don't know if that requires us to come back or not. Pat asked if we can do a final Site Plan approval at the next meeting with another proposal. John Burke said members of the Board does anyone have any particular problem with any of the other items on this list besides what we all said about the height? Neil Hamilton said he doesn't know why they need the shed, to meet the requirements of the storage, I would suggest that possibly this Board may want to waive that and eliminate that area as well. As far as the other requirements and you may want to talk to the Engineer about that to deal with any Storm Water Management, he thinks it's nearly impossible down there to address that issue. I am suggesting we just get over that, don't encourage expense on the applicant. Any other issue the Engineer may deem that is not feasible for that area, plantings, landscaping and so on, it's not going to work in that Zone. I commend you for taking on a project in that area and certainly listening to the Board to reduce what is reasonable to build on that corner in those adverse conditions. You may want to work with Mr. Yodakis and see what is not necessary and what's not reasonable. Al said he agrees with Neil, he said if we put recharge pipes under the ground they are going to be full of water all the time and that doesn't serve the purpose of the Ordinance. John Burke told Mr. Clark if the applicant can drop it to 2 1/2 –stories and 32-feet in height. Lenny said he would be in favor of 30-feet, Neil said a quick reason for that is he can see the four feet elevation out of the ground from grade makes sense, 9-foot ceiling on the first floor which makes sense in a narrow house, open it up to give you a little more space. The second floor if you want an 8-foot ceiling you are going to need 9-feet, so you are 23-feet out of the ground to get your first two floors, if you want to add 7-feet to that you get a pull-down attic with a ridge up to the 7-feet, you can stand up to the ridge. It's doable; you get 3 bedrooms, 2 baths, and common area. I think the project could be a go at 30-feet. Joan, John both like Neil's numbers. Mr. Clark said procedurally we can come back with a Final Site Plan with these changes and the applicant will go along with the 2 1/2-story, 30-foot height. Geoff Cramer said that's a good approach, we need to get a waiver from you for the time constraints, you can do that by letter to the Board Secretary. John Burke said so then you will come back to us on August 7, 2012 with revised Site Plan and it should be quick at that time. Mark Apostolou made a motion to carry this application to the August 7th meeting, the motion was seconded by Joan Harriman, all in favor none opposed.

APPLICATION CARRIED TO AUGUST 7, 2012

APPLICATION #12-2012 – SanFillippo, Nicholas – 422 Long Avenue – Block: 174 – Lot: 121.04 – Zone: R-2 – Mr. Cramer swore in Nicholas and Geraldine SanFillippo – owners/applicants, along with Al Yodakis, Board Engineer. John asked Neil for comments from the Technical Review Committee. Neil said they took a look at it and because of the uniqueness and the location of the property and where he is looking to have his encroachment on his property line it's into the water. Our feeling was that if it were on the eastern side maybe it would be a problem with the neighbor but due to the location and the request we didn't find that there were any issues with it. There again you need testimony from the applicant and approval of the Board. Mr. SanFillippo had a picture of his house and dock that was marked into evidence as Exhibit A-1. Mr. SanFillippo said he has very little space in the back of his house because of the irregular shape of the lot, it's really a triangle. The reason we want to do this is because of the very little space they have and also

a safety issue. They want to go out 11-feet and just out over the improved area that's already there. Joan Harriman asked if he was going over the dock this could be a legal issue. Mr. SanFillippo said he had already spoken to his engineer that did everything with the DEP and he said as long as they didn't go out any further than what's there it is not a problem. Mr. Cramer looked at a letter from the State of NJ DEP *which references the permit that was issued back in March of 2009, which shows what permission the permit granted for construction of the fixed 4 X 21-foot dock parallel to the existing shoreline with a 1.5 X 5-foot ramp leading to a 4 X 18-foot floating dock, a 4 X 8-foot boatlift attached to the bulkhead and approximately 141 linear feet of vinyl replacement bulkhead, in-place and in-kind of the existing deteriorated bulkhead.* Mr. Burke said the approval letter does not show that they are permitted to put a deck over that dock, you are assuming that you don't need approval from the DEP. Mr. SanFillippo said according to his Engineer who did all the paperwork for building the dock the answer is yes. John Burke said he is telling you that if you are flush with the end of the dock you can build a structure above that dock. John Burke asked Al Yodakis who did not have an opportunity to review the paperwork, an Engineer report was not requested for this application. He said typically a lot of DEP permits are based on the coverage over the water so he would imagine that would be the case. Mr. Cramer asked if it was possible to get a letter from the SanFillippo's Engineer encapsulating his opinion. John Burke said shore towns have history with the DEP and if you are going to do something like this really for your own benefit you don't have an approval or a letter or something from them, you could put this deck up and a couple of months from now you could be told to take it down and we wouldn't be able to do anything about it. Mr. SanFillippo said that's why he went to his Engineer long before he put this application in. Joan said in essence he could put a railing around the dock right now, he is just raising the height of the dock. John said that's a good way of looking at it. Mark Apostolou said he is concerned about the liability for the Town, he doesn't know what easements exist in that location, does the Town own an easement, is there a Riparian Grant that the State owns. Mr. SanFillippo said he would not be blocking anybody's view, they would use the same railings they have on the rest of the house. John Burke said what we are going to request of you is if you get an approval tonight you are going to have to give the Borough a Waiver of any liability that might come up in the future from the State, the County the Federal Government, or anything like that. Mr. SanFillippo said absolutely. John asked Al if he looked at that thing from the DEP. Al said he looked at the permit, it's a generic DEP permit, it references specifically the dock and the date of the plan which is what he expected to see. Mrs. SanFillippo said she is concerned about her grandbabies, it's a health and safety issue. Mr. Cramer said you have the documents that appear to support the applicant's position, he thinks the Board has what they need to proceed, he would still like a professional opinion from the applicant's Engineer and he would like that put in writing and provide that to Mary he thinks the Board would be more comfortable. Mr. Burke said if the applicant gets an approval we are looking for a letter absolving the Borough from any liabilities and also a letter from your Engineer explaining his views that this can be done without any problem from the DEP and so on. Geoff said the release of liability should come from the Borough Attorney, Mr. Kitrick. Councilman McCarthy will talk to the Borough Attorney and he will prepare a letter for you to sign. Patrick made a motion to open the meeting to the public, Michael Sinneck seconded the motion, all in favor none opposed.

There was no audience participation. Michael Sinneck made a motion to close the public portion, the motion was seconded by Lenny Sullivan, all in favor none opposed. Councilman Owen McCarthy made a motion to approve the application subject to the two conditions stated; the motion was seconded by Mark Apostolou.

Board Members Voting Yes:

Patrick Callahan, Joan Harriman, Councilman McCarthy, Neil Hamilton, John Burke, Michael Sinneck, Leonard Sullivan, Peter Ragan and Mark Apostolou

No negative votes

APPLICATION APPROVED

APPLICATION #13-2012 – Diana, Frank and June – 401 First Avenue – Block: 186.01 – Lot: 10 – Zone: R-5 – Joan Harriman recused herself from the dais as she lives within 200-feet of the applicant. Tom Peterson is the architect for the project, Gail Diana Wylam is the daughter of the applicant's who is speaking for her parents Frank and June Diano, who Geoff swore in and gave their daughter Gail permission to speak on their behalf. Gail's address is 1600 Field Avenue, South Plainfield, NJ. Geoff said Mr. and Mrs. Diana, the applicants are here this evening and they have been sworn in and their daughter and the project architect are going to testify in support of the application and if there is anything that they say that is incorrect he is sure the Diana's will advise us. Their daughter is their first witness. There is no representation here because the Diana's themselves are present. Gail gave her testimony first. She explained that as the house stands it's not good for elderly people and they are trying to accommodate them. Next, Tom Peterson gave his testimony. He had pictures to enter as evidence. There were three pages, first sheet is two photographs of the front of the subject property, the second sheet is the back of the property off of Timber Lane, the third sheet is two photographs once again in the front along First Avenue looking sideways along the house to the north and to the south to show other existing structures that protrude out similar to what we would like to do. Tom addressed all the technicalities. The property goes through from First Avenue to Timber Lane. Presently there is an uncovered porch in the front and they would like to center that on the house and put a small covered porch there. The TRC kind of frowned on that however we understand they are already too close as far as the front property line is concerned but they used many other homes along First Avenue that have covered porches that come out into that front yard setback. Looking at the photographs marked as Exhibits, on the top photograph on page 3 the house just to the north comes out approximately 3-feet and our covered porch area would be almost identical as far as the proximity to the sidewalk. If you look at the bottom photograph, the house just to the south has a little covered awning area that comes out about 2 1/2-feet which goes to an entrance that goes from the sidewalk down. The porch would not block anyone's view or light; he sees it more as a positive than a negative. This seems a way of trying to create some interest to the house. If you look at the second page, the bottom photograph there is a hodgepodge of different roof styles, it looks like it's been added onto many times. We would like to straighten out some of those roofs and make it a more consistent or homogenous style. In doing that and at the same time trying to create some storage space up above or possible expansion space as a second floor there, what we did was we created a different roof line and brought that all the way to the back. The only part of that which would be potentially habitable would be the part in the front and if you take a look at sheet

#1 where he calls it the second floor plan, it's only the part that is really the east half of the house. The roof line will then come in and go towards the back it would not be of a height that anybody could walk through; it would be more storage or mechanical equipment. But it does accomplish the goal of trying to make a more uniform looking roof line from front to back. In order to do that, on the first floor of sheet #1 the eave line above where the new shed is, adjacent to the kitchen the eave line actually comes out more than the 24-inch eave that wouldn't be counted as building coverage. That adds a small part of building coverage, even though there is no building underneath. Likewise the covered porch in the front also adds building coverage, even though there is no living space. We are eliminating some existing paving, some in front and putting a small planted area. They are much improving the impervious coverage calculations. The dormers on the second floor are creating another Variance. The dormer to the north is held back in, so that dormer is 5-feet from the property line. The dormer on the south because that's above the stairs and the stairs are up against the side wall, that dormer would be above the outside wall on the first floor which is a little over 2-feet from the property line. We need that dormer for the head room, the stairs to get up there. The TRC would like to see that dormer pushed into 3-feet. If we did that we wouldn't have the head room. The dormer is only about 5-feet wide and doesn't have any windows in it because it's within 3-feet of the property line. The existing shed is going to be pushed up against the house. They will continue to have the number of parking out back, we have four spaces plus one that could be stacked if it came to that. Because of the size of the lot we are forced to come here no matter what we do. There was no Engineer report on this application. Neil speaking for the Technical Review Committee said the stairs on the plans are not there now are they? Tom said no there is a pull-down now. Neil said if you can't move the dormer or make it comply it makes no sense to alter it, we looked at it for compliance and aesthetics, but if it's impossible and you are going to lose space inside that makes no sense to do that. Pat said that would push them into the living room area. Tom said exactly. Mike said is it possible to raise the roof and move the dormer back and making that second floor a little more useful. Tom Peterson said part of it is a budget thing. Just so you know when we started this project, it was a full second floor, the cost started adding up and it came down to this. That landing is only 4 steps up, we tried to keep the landing a little bit lower. Lenny asked if they could push the front porch into the house. Tom said they are already two feet back. The Diana's like to have some chairs out there which this just gives them barely enough room. Neil said Tom has made an effort, he certainly recognizes our thoughts and how we try not to increase any encroachments along First Avenue, although some are out. The Board does welcome front porches, the house is in need of aesthetic improvement and you have addressed that and I think you are going to have a nice looking structure when all is said and done. The overall project in what you are asking for in Variance relief is pretty deminimus in all categories. You have reduced some and increased others minimally. Our only other issue would be the front setback; it's not that drastic so that would be up to the Board. Councilman McCarthy made a motion to open the meeting to the public; the motion was seconded by Mark Apostolou, all in favor none opposed. There was no audience participation. Michael Sinneck made a motion to close the public portion of the meeting, the motion was seconded by Mark Apostolou, all in favor none opposed. Neil Hamilton made a motion to approve the application, the motion was seconded by Patrick Callahan.

Board Members Voting Yes:

Patrick Callahan, Councilman Owen McCarthy, Neil Hamilton, John Burke, Michael Sinneck, Leonard Sullivan, Peter Ragan and Mark Apostolou

No negative votes

APPLICATION APPROVED

Chairman Burke called for a 5-minute recess.

Roll Call Following Recess:

Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, Neil Hamilton, John Burke, Michael Sinneck, Leonard Sullivan, Peter Ragan and Mark Apostolou

APPLICATION #14-2012 – Fitzpatrick, James – 64 Second Avenue – Block: 166 – Lot: 9 – Zone: R-2 – Geoff Cramer swore in Robert James Fitzpatrick, owner/applicant and Frank Morris, builder. Mr. Fitzpatrick gave his testimony first, he had pictures to enter as evidence, Mr. Cramer marked them Exhibit A-1. Mr. Fitzpatrick first apologized, he said when they raised the house they also raised the decks and didn't realize there would have been a problem because the decks front and back were attached to the house. When the house was moved up he naturally thought the attachments would go with it. There was nothing on grade level. After hurricane Irene last year they decided to raise their house out of the flood zone. He stated keeping the rear deck at 2-feet where it was would keep it prone to further flooding and further damage of the house which would be a hardship. Swift water could cause the decks to be torn away from the house and cause damage to the house. The Board members asked Mr. Fitzpatrick if he had a picture of the elevation of the rear deck, he had a picture submitted into evidence as Exhibit A-2 of the deck as it sits now. It shows how high above the ground it is right now. Patrick said he and Dick did a site inspection and the height is 46-inches. Mr. Fitzpatrick said there is a safety issue with having to use stairs and that's why the back deck being level as it was before is quite important to him. Next, Frank Morris said some of the requirements for flood heights have recently changed. Before it was top of the floor, above flood now any of the wood has to be either treated or above flood. So, you have added 8 to 10-inches in the height that houses now have to be raised. If you are raising an existing house the lumber is not treated, therefore you have to get the house up above the flood elevation. Before it could be in the flood elevation as long as the floor was above it, so you've increased the requirements between 8 – 12- inches depending what size floor joists and girder systems they have. With the narrow lots what we run into, he has three houses coming up and probably won't before you now because of this, they can't get out of the house. There is not enough room for their staircases and front stoops and stuff for them to get down to the Street level and not violate the building requirements. People need a landing when they come out of their house and then go down a set of stairs, it's difficult with front doors or sliders when you are standing on one tread. There has to be some sort of leniency allowed for these people to raise their homes. Frank feels the old rules may not apply as well as they used to because of the changing in the flood code requirements. Some consideration has to be taken. John Burke asked if on the rear deck, they raised it they did not increase the area of the deck at all is that correct? Mr. Fitzpatrick said right and you can see that in the photo of the footprint. John said he just wanted to get that on record, you saying you did not increase

the area of that deck at all. Joan Harriman said she has a deck that is level with her sliding doors and as people get older it is an important aspect. Mark asked about the prior Resolution for the property and asked if they lifted this home in 2003. Mr. Fitzpatrick said no, they were approved but the cost became prohibitive, they didn't do anything. They lifted the home a few months a couple months after Hurricane Irene, this past winter. They obtained approvals from the Town to raise the house and omitted to include the decks within that permit process. Mark said so you are here asking us to authorize the decks to go up to the same level that they raised the house, that's what this is all about. Patrick Callahan made a motion to open the meeting to the public, the motion was seconded by Neil Hamilton, all in favor none opposed.

Audience Members Coming Forward:

Veronica Lindemer – 60 Second Avenue – directly next door to the Fitzpatrick's. She objects to the height of the deck in the rear especially because she thinks it sets a precedent. She said the deck is now actually higher than her 6-foot fence and people are able to see into her yard and her pergola which she really enjoys. She fears that if this house is sold and becomes a rental it would be disastrous for her. Her main concern is keeping her privacy.

Daniel Carey – 52 Second Avenue – He said the Fitzpatrick's are here for only about three months out of the year, then he's gone to Florida. So, we'd be stuck with first of all the curb cut, the raised decks and two it sets a precedent. The concern is people are going to start to submit permits to raise decks in their backyard. They just went through the expense of having a 6-foot fence put in their backyard for privacy, if our neighbors start putting higher and higher decks, those fences are useless. There is no sense having the fence because everyone is looking over the fences. They are planning to raise their house and to put a substantial there. Lot coverage is considerable on this, they have two driveways and he can put a ramp in as access for egress to get in and out of the house. There are other ways of doing it. His major concern is others will say you did it for him now you have to do it for us.

Joe Lisante – 71 Second Avenue – He lives diagonally across from Mr. Fitzpatrick. He saw his house get raised because it had to be because of Hurricane Irene and he thinks personally aesthetically they did a good job in the front coming out with the deck so they could step onto them and head down to the steps, so he just came to say that he thinks they did ok in raising the house and it looks fine. He looks at it every day.

Peter Calvanico – 70 Second Avenue – Joanne Calvanico – 70 Second Avenue – they are neighbors on the other side and have no opposition, Joanne said they were very lucky in the Hurricane on their front house they were inches away from having to be raised like theirs was. They anticipate in the future having to do a similar job to theirs. They had \$40,000 worth of damage in their back building. They feel the Fitzpatricks did the very best they could have done given their circumstances, she would like to point out that this is the north end of Town and we are not any kind of Brielle Road situation they never have renters, it's all family and friends as our homes are, she doesn't see a problem with it.

Norman Merz – 26 Second Avenue – He said ten years ago he put a second story on his house and he didn't have to come before this Board. The decision the Board sets often sets precedent for what happens to the neighborhood as it goes along so please consider your decision very, very carefully.

There was no other public participation, Michael Sinneck made a motion to close the public portion of the meeting, and the motion was seconded by Mark Apostolou, all in favor none opposed. John Burke said he wanted it on record that he does have partial ownership of a home in that area but he is out of the 200-foot zone, so he can still sit on the dais. Neil Hamilton had a comment, he asked how many members physically went into this backyard and saw this deck. The answer was only two. In his opinion, in fairness to the neighbors and to the Board prior to making a decision, and this may trickle down to what Mr. Morris has said with elevating these homes now in making them in compliance with FEMA, where decks are involved. We may have to take a new look at how we are addressing the requirements. He strongly suggested that maybe we need to carry this application and we need to make arrangements with the applicant that we can get on site and physically take a look at the deck itself so we're really familiar with it and see what the neighbors are looking at and what we can see over the fences and all. He thinks it will serve as a two-fold education for us for this application and what we may need to do to change some of our Zoning requirements. Owen said he agrees with Neil, he has more of a concern as to the backyard deck than what exists in the front. He seconds what Neil said. Frank Morris asked if the Board could split their decision that way. Neil said technically we didn't have an issue with the front because in looking at the other properties many on that Street if you take the side elevation their houses and/or decks are farther located to the Street compared to yours. The rear deck issue was a concern but we didn't physically see it. Mark Apostolou said the prior Resolution stated that the rear deck was at grade. Mr. Fitzpatrick said it was not at grade. Mark said the Resolution states it was at grade level. Mr. Fitzpatrick said if you look at the '97 Survey you will see steps. Lenny Sullivan asked Mr. Morris if there is something that can be done with the back deck to maybe lower it to appease everybody. Frank said you would have to lower the deck at some portion and maybe allow a platform or something to come out of the side, you just don't want to have steps coming right down out of your back slider, you are just asking for trouble if you do that. Lenny said so you could come out to a platform and then go down to a deck. John Burke said what he would like to do is if you can make your phone number and so on available to Mary where we can reach you and make a window of time where we can come individually or in pairs, never more than four members at a time. Peter Ragan made a motion to carry this application to the August 7, 2012 Regular meeting, the motion was seconded by Joan Harriman. All in favor none opposed. They do not have to re-notice or re-publish.

APPLICATION CARRIED TO AUGUST 7, 2012

RESOLUTION #10-2012 – Greenlight Surf Shop – 187 Parker Avenue – Block: 47 – Lot: 23.05 – Patrick Callahan made a motion to memorialize the Resolution, the motion was seconded by Joan Harriman.

Board Members Voting Yes:

Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, Neil Hamilton, John Burke, Leonard Sullivan, Peter Ragan and Mark Apostolou.

RESOLUTION MEMORIALIZED

RESOLUTION #17-2011 – 30 North Main Street – Mastorelli, Patrick – 30 N Main Street – Block: 32 – Lot: 1.01 – Zone: B-1 – Mark Apostolou made a motion to memorialize the Resolution, the motion was seconded by Patrick Callahan.

Mary stated she has an outstanding voucher on this application, Geoff recommended to adopt the Resolution but hold all permits until the Inspection Escrow money has been paid to the Planning Board.

Board Members Voting Yes:

Patrick Callahan, Joan Harriman, Councilman McCarthy, Neil Hamilton, John Burke, Michael Sinneck, Leonard Sullivan, Peter Ragan and Mark Apostolou.

RESOLUTION MEMORIALIZED

Peter Ragan made a motion to approve the minutes of the May 1, 2012 regular meeting, Patrick Callahan seconded the motion, all in favor none opposed.

MINUTES OF MAY 1, 2012 APPROVED

Peter Ragan made a motion to approve the minutes of the May 15, 2012 special meeting, Patrick Callahan seconded the motion, all in favor none opposed.

MINUTES OF MAY 15, 2012 APPROVED

Leonard Sullivan made a motion to approve the vouchers, the motion was seconded by Owen McCarthy, all in favor none opposed.

PAYMENT OF VOUCHERS APPROVED

Al Yodakis addressed the stipulation in the Resolution for the Dairy Queen project which was to internally subdivide the interior of the deli space, divide it in half. What we required because of the contamination on the site was either a NFA letter from the DEP or the approval of a remediation plan. At this point we don't have any of those but the reason being is that the DEP regulations have changed since we heard this application. Since that time the DEP has put into place the LSRP program which is a Licensed Site Remediation Professional Program. In essence the DEP has said we are no longer the enforcement agency, now Licensed Site Professionals oversee the cleanup the DEP agents used to oversee. Any site that has contamination has to hire their own Licensed Site Professional to work with them, come up with a plan and then implement that plan in a timeline that is stipulation in the DEP regulations. The Constantino's have an LSRP who is working with them and at this point they have removed over 700 Tons of contaminated material from behind the site, it also slightly went onto the adjacent site. They have removed the bulk of all of the original contaminated area. They have then carted in new clean fill. There is potentially a plume which may have spread so they are going to have to put some monitoring wells in, but they have moved forward in good faith and have been moving in the direction that Al believes the Board would have them move it. However, that is not what is in writing here and at this point they are not in conformance with the wording that is in the Resolution so Al was not about to just sign off and say well, they have made a good faith effort so yes the Borough can go ahead and let them subdivide this, he wanted to bring it to the Board's attention and bring it up for discussion. If the Board would like them to do something further. However, at this point this could be a very long process of watching these monitoring wells and in ten, twenty years there could be some migrating

contamination that could continue to decrease for a very long period of time which is not uncommon. Peter Ragan asked if this rule was in effect prior to them coming in here, would this satisfy the same intent of what is in the Resolution. Al said if that was the case we probably would have worded our Resolution differently and said you must hire an LSRP in accordance with the DEP requirements and provide us a schedule of how you are going to move forward with your cleanup. Peter said that's an assumption that's what we would have done but does this letter accomplish that? Al said he thinks, and again he doesn't want to speak for the Board but he thinks they are moving forward in what we were looking for. We in essence did not want this cleanup to linger, we wanted them to take action and begin the cleanup route and they have done that, they have done the largest portion of the cleanup at this point by removing all of this contaminated material. They now have an LSRP who is on the hook, their licenses are on the hook and he can tell you these people are taking it very seriously who is going to be overseeing this. Mark Apostolou said they are a Corporate entity and they can go bankrupt, can we require a Bond from them or say where is your Malpractice, is it a claims made, so that we're not on the hook, how do we assure ourselves that they are responsible for this? Owen said they have set forth who is qualified to serve. Al said they did, there was a testing procedure to license these people but also if an entity goes out of business or this LSRP leaves the firm and the contractor remains with this firm another LSRP needs to be put in place. Any contaminated site within the State has to have a specific person named as the LSRP. There are literally thousands of contaminated sites. Al said we are not the enforcer, the contamination falls with the property owner who originated the contamination. Owen said if Al is comfortable that there is a plan that is acceptable by the DEP then he thinks the Board can rely upon what the State is telling us is an acceptable means of remediation. Al said he feels what they have done is what the intent of our approval was. Al feels from his personal standpoint the LSRP program is going to push more cleanups in this State than the DEP did. He is involved in a cleanup in another Town for a Board of Ed where ten years ago they sent in readings to the DEP saying there is confirmation, they got back to us about six months ago. It was literally almost ten years it sat in some file there. LSRP's are forced to put a cleanup schedule in place and follow up on them. Peter Ragan asked Geoff is there were any noticing requirements. Geoff asked Mary if she sent a copy of this report to the Clark Brother's attorney and she said no and Geoff said nor did he. Mr. Cramer will send a copy to the objector's attorney as per the recommendation of the Board as a courtesy. Joan Harriman made a motion to accept the letter from the LSRP satisfying the spirit of that requirement mentioned in the Resolution, the motion was seconded by Michael Sinneck.

Board Members Voting Yes:

Patrick Callahan, Joan Harriman, Councilman Owen McCarthy, Neil Hamilton, John Burke, Michael Sinneck, Leonard Sullivan, Peter Ragan and Mark Apostolou.

Neil Hamilton said just looking at the bills tonight and in the past when he and Lenny take a look at them, Mary is periodically chasing money or we're getting borderline. If he recalls it's probably been four years or more since we have taken a look and increased our fees. Especially our Escrow, it's not a big deal to get our Escrow up to anticipate what the professionals have increased their rates to over the four years. If we're over, so be it, the applicant gets a refund. It's much easier to refund dollars than it is for Mary to try to

chase it and get it all cleaned up. He thinks Pat and his department needs to take a look and see what our escrow and fees are compared to other Towns. We will try to get up to speed with everybody else and along with that maybe take a look at our Zoning application fee. Dick has been having to redo some of these applications two or three times, especially the Brielle Road one and he's only getting a shot at it one time so the Town is paying for that. Owen said the Code Department should take a look at it, make a recommendation and he can bring it to Council. Patrick said we are looking in the Fall to review all fees and actually put everything into one Ordinance, so it's all together. Geoff said something could be put in the application that would guarantee the applicant would pay any money owed. Mark Apostolou said you could say the night of the meeting that they wouldn't be heard if they have not paid, Mary said when they come to the meeting they have paid, they have paid what she asked for and then she gets vouchers in excess of what she has asked for. John Burke said we have cases continued to the next meeting and all the money that's paid up front is paid for the one meeting, now Mary has to go chasing for more money. Mark said the application could state that if a meeting is carried additional escrow must be paid. Owen said Mary and Pat should look at the fees and increase our initial amount and if we have to give money back like Lenny said so be it. John Burke asked if this can be done by the September meeting. Patrick said we will have to review the fee schedule. John Burke said you will have to come back to us and we can get all this done and in place before the end of the year. Mary said as she explained to Lenny the reason there are stickies on there all those bills have been processed except for the ones she doesn't have enough money on. So, tomorrow morning they go down to Finance because you sign them and they go down for payment. She pulls the ones with the stickies and wait, because she has already written to them for additional escrow.

Mark Apostolou made a motion to adjourn the meeting, Patrick Callahan seconded the motion, all in favor none opposed.

MEETING ADJOURNED AT 10:06PM

Respectfully Submitted,

Mary C. Salerno
Planning Board Secretary