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CONSTRUCTION DEPARTMENT

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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

ALBERT "SANDY" RATZ
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The Manasquan Planning Board held a Regular Meeting on July 11, 2017 at 7PM in the Council Chambers of the Borough Hall, 201 East Main Street, Manasquan, New Jersey. Chairman Hamilton asked everyone present to please stand and salute the flag. He explained the agenda is posted on the bulletin board but he might make some minor adjustments to the positioning of applications on the agenda.

ROLL CALL:

Board Members Present:

John Muly, Robert Young, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Leonard Sullivan, Kevin Thompson, Neil Hamilton

Board Members Absent:

Mayor Edward Donovan, Councilman James Walsh, John Burke and Barbara Ilaria (Mayor's Alternate)

Professionals Present:

Geoffrey S. Cramer – Board Attorney

Albert D. Yodakis – Board Planner/Engineer – BORO Engineering

Geoff Cramer read the Sunshine Law.

Leonard Sullivan made a motion to approve the minutes of May 16, 2017, seconded by Kevin Thompson, all in favor none opposed.

Leonard Sullivan made a motion to approve the vouchers, seconded by Robert Young.

Board Members Voting Yes:

John Muly, Robert Young, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Leonard Sullivan, Kevin Thompson, and Neil Hamilton.

RESOLUTION #08-2017 - Farrell, Michael and Colleen – 283 Beachfront, 282 First Avenue – Block: 181 – Lot: 8 – Zone: R-4 – Mark Apostolou made a motion to vote to memorialize the Resolution, seconded by Robert Young, all in favor none opposed.

RESOLUTION #11-2017 - Greenberg, Linda – 67 N. Farragut Avenue – Block: 105 – Lot: 13 – Zone: R-1 – Mark Apostolou made a motion to memorialize the Resolution, seconded by Robert Young, all in favor none opposed.

Neil Hamilton said we have three (3) applications tonight. One is carried on Ocean Avenue due to change of Council, we also have a minor subdivision on Euclid Avenue which was not required to be noticed, we also have a Site Plan amendment for the Manasquan Savings Bank. If there is no objection, Mr. McLaughlin for your clients on Ocean Avenue, I would like to let Mr. Henderson move these other two (2) cases forward. Mr. McLaughlin said he did not have an objection. Mr. Liston spoke, stating he is representing the objector for the Ocean Avenue application and they have no objection.

APPLICATION #15-2017 – Hegel, Terrance – 333 Euclid Avenue – Block: 119 – Lot: 17.01 – Zone: R-2 – Keith Henderson introduced himself as Council for the applicant/owner 333 Euclid Avenue, LLC. The Board accepted jurisdiction of the application. Mr. Henderson said this is a totally conforming subdivision, there is one member of the LLC which was disclosed to the Board and that is Terrance Hegel, he is the sole owner. The property is not on a County Road. We reviewed Al Yodakis' letter, we can comply with everything, we will just point out that the monuments will be placed before the subdivision is perfected and obviously the existing building will be demolished before the subdivision is perfected. In reviewing the Survey I noticed the Surveyor assigned incorrect lots and that will be corrected before the subdivision is perfected. It is a subdivision of right. Al is fine as long as they are stipulating to the several items in his report. Neil asked about the tree in the front and Mr. Hegel said that tree is in bad shape. Neil said he asked Shade Tree to look at it and he didn't know if they did. Mr. Hegel will be putting landscaping trees on the lots. Kevin Thompson made a motion to open the meeting to the public, seconded by Greg Love, all in favor. There was no public participation. Mark Apostolou made a motion to close the public portion, seconded by Robert Young, all in favor, none opposed. Mark Apostolou made a motion to approve the subdivision as a matter of right, seeing no objectors, subject to Mr. Yodakis' statements and the compliance by the applicant therein, seconded by Robert Young.

Board Members Voting Yes:

John Muly, Robert Young, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Leonard Sullivan, Kevin Thompson, and Neil Hamilton.

APPLICATION #14-2017 – Manasquan Savings Bank – 185 Main Street – Block: 65.02 – Lot: 22.01 – Zone: BR-1 – Demolition and new drive-in facility. Mr. Keith Henderson is the attorney representing the owner/applicant, Manasquan Bank. There is no requirement for shareholder disclosure in this because the Bank is not a Stock Corporation, it's a Mutual. The Board found the file to be in good order and accepted jurisdiction. Mark Apostolou disclosed that he has an account at Manasquan Savings, Neil said he thinks a few of the Board members do, he does as well. Mr. Henderson had three witnesses to be sworn in, Mr. Vincent Wolk is the architect, Jeffrey Spalt is the Licensed Professional Planner and Allison Coffin is also a Professional Planner. Geoff swore them in along with Al Yodakis, Board Engineer. Keith called Mr. Wolk first to testify. He prepared a rendering of the new drive-up canopy building which was entered as Exhibit A-1. The Board accepted his credentials. He explained what is being replaced. There will be two (2) drive-up awnings, an ATM lane. The drive-up lanes will be served from the main branch building and fed through pneumatic tubes. The ATM is also a drive up lane, there is a walk up ATM in the main entrance on Main Street. There will be a gable roof canopy, the

footprint of the canopy is 22 X 37, there will be a fiber glass timberline shingled roof, there will be gables on each end of the canopy, and there will be signage. The ceiling will be solid and there will be lighting, blue bollards to match the siding which are for safety reasons. Al didn't have any questions. Next, Jeffrey Spalt gave his credentials which were accepted by the Board. He is a Site Engineer, Professional Civil Engineer, licensed in New Jersey. He prepared the Site Plan and prepared colorized copies for the Board one was marked Exhibit A-2. He prepared the partial Site Plan which appears on the Board, he colorized and provided reduced copies for the board to review. They need a variance for impervious coverage. It's already over. Existing is 81.7%; they are proposing 82.2%, impervious coverage. After reading the report from Al Yodakis they amended the plan. They are now eliminating the need for that variance; they are bringing the impervious coverage down to 81.3%. There is another variance for signage. They are slightly reducing the amount of signage, he ran through a quick accounting of the existing signage, so the Board understands where the variance lies. At present the site has two (2) free standing signs, one out on Main Street that is about 8.2-square feet, and a second free standing sign that is back on Abe Voorhees Drive and that's 51.9-square feet. Those signs are not changing, they will remain, and no part of this project will affect those signs. Additionally, the main bank building has three (3) signs that we do not intend to change, that includes a sign facing Main Street at 16.5-square feet, a sign facing the Exxon at 69.2-square feet and a third sign on the back of the building essentially facing Abe Voorhees on 69.2-square feet. Presently, on the existing accessory building, the building that hosts the teller that serves the drive-through lanes, which we are proposing to demolish there, is an 18.1-square foot sign. That sign will come down as well. Of the signage that's there there is a total of 233.1-square feet, 215 of that is going to remain. Our proposed signage, we are proposing new signage consisting of and represented on the architectural elevation, there are actually three (3) signs on that building. One facing Abe Voorhees Drive, that's 16.97-square feet and then one facing both east and west, each of those is 27.04-square feet. The net increase in signage overall is 52.77-square feet, as a result of this project. We require a variance for signage. Neil asked if this encompasses all the signs, handicapped, stop signs, is that correct? Mr. Spalt said this is solely identification signage. Neil said the current is 233 and so what's going to be the final proposed. Mr. Spalt said the final proposed will be 285.87. Mr. Henderson asked Mr. Spalt if he reviewed the Engineer's report. He said yes and they went through Al's report. He said item #3 regards operations, the ATM will be a 24-hour operation, the lighting associated with the ATM by State Law is required to be on 24-hours. The other two lanes which are manned by a teller inside the bank will be operational during the banks normal business hours. Monday through Friday, 8-6PM, Saturday 9-1PM, for lanes 2 and 3, they will be shut off only the lights under the ATM lane will remain on. The lights are LED lights recessed and directed from the top solely over the transaction area. Next, he addressed the parking area. There is a small increase in impervious coverage for the site. The existing crosswalk to the rear of the building will be eliminated with the new canopy. Bollards are proposed at the edges of the canopy drive aisles to protect the canopy and equipment from vehicle traffic. Mark Apostolou asked about traffic flow, you have an ingress and egress within the same entrance. There are presently two handicapped spots; the total number of parking spaces will remain the same. Neil asked the general time frame for demo and construction, also how will the site be maintained as far as impact of parking loss and equipment in the Plaza. They answered

that this site is large enough so they would be able to stage it, we can keep the traffic flowing, we will probably have to shut the driveway for a certain amount of time which will create less traffic. We are not going to be able to get the tubes up and running and knock down the structure at the same time. Once we get across this road with the tubes which will probably be done in off hours like we do in road construction and then that's really the only main concern. Mark asked what their notice will be for customers. They answered there will be information for customers prior to the start date. It's not a very big building; demolition will probably be done in a week. Once that building comes down there will be 20 parking spaces. Mr. Henderson next called Allison Coffin as his next witness. She is a licensed professional planner in the State of New Jersey, the Board accepted her credentials. She reviewed the variances requested which is really down to only one. She said the application requires a C-1, commonly called a Hardship Variance, with result to the signage. The existing signage on the site exceeds the maximum approval that's allowed, the canopy requires the requested signage. She feels the C-2 standard is more applicable to this situation, that's the standard within the MLUL that applies to the purposes of the MLUL are being advanced by the requested variances and how the benefits of the variance substantially outweigh the detriment. In this instance, the variance request provides public safety by providing proper site circulation and adequate identification signage for the proposed canopy and also provides sufficient space in an appropriate location for a commercial use. Lastly, provides a more desirable visual environment. In total this application improves both the rear of the property visually by removing that building and having a canopy structure which is much more open and increases the site lines through the property. It is her opinion that there is no detriment in this case it makes good planning sense to have a little more signage for the property. Mark Apostolou opened the meeting to the public, seconded by Robert Young, all in favor.

Audience Members Coming Forward:

Fran Drew – 111 Third Avenue and 169-175 Main Street – She has been a client of the bank since 1949. She wants to make sure that nothing is going to be impeding the 22-foot right-of-way. (There was conversations between Ms. Drew and the attorney, architects and the microphone did not pick it up) She then said the plan that they are showing impedes the right-of-way. The reason she is bringing up this question is that last year when the Lazlo's were here they closed off a 16-foot access and it has caused havoc for our tenants in our building and for the bank people. Trucks come in now and they can't get out anymore and I'm working with a Land Use Lawyer to find appropriate options so that we can use that right-of-way. Neil interrupted, stating that has nothing to do with this application Fran, if the Engineer says we are not creating any problems. The Engineer said the right-of-way being referenced is a right-of-way extending from Abe Voorhees through the site and as you cross parallel Abe Voorhees through the site then along the westerly boundary, the landscape design you will be able to get a car through in this direction, basically heading north into the site and west across this island and then against drive through traffic further north to access the property to the north. We wouldn't do that, we would come north, make a left and then you would continue north that way. I don't imagine why anyone would want to cut through in that direction when this movement is possible. Neil said so there is going to be no change or interruption to your property Fran. She again asked if the right-of-way would be changed. She was speaking with the President, Jim Vacarro, he knows the problem and understands it and he has a little drawing from him

which indicates something that we are trying to work on together. She wants to make sure that there is not going to be a right-of-way eliminated that has been there for many, many, years. If you are eliminating it then the right-of-way will have to be changed. (There was a lot of chatter away from the microphone) Neil said stop, this is not a problem for this Board this evening. Neil said Keith make your comments, we are not going to waste a lot of time on this, this is something with the applicant Fran. Keith Henderson said we offered before the Board to put on some extra landscaping, the original application was not for that, we did it because it seemed obvious to us it was a better route to come out this way, however, if Fran Drew has an objection to that, we will leave the application as it was and we will withdraw the request to do that landscaping. Neil said there will be no change in the traffic pattern. Keith said we'll submit it as it was submitted if we can work out something with the right-of-way, if we can work something out we will leave the application as it was. Al said it's a minor increase, we are going from 81.7 to 82.2%, would the applicant be agreeable if there are any drainage issues down the line to return to the Board or in some way litigate it. Mr. Henderson said they would stipulate to that, but he walked up there after a deluge today and if anything the water comes from the other direction not from there. Keith said he just has to talk to the President of the Bank.

Mark Apostolou made a motion to close the public portion, seconded by Robert Young, all in favor. Keith said this is a simple modification of a site, it's simply updating it and brings it into this Century. Kevin Thompson made a motion to approve the application, seconded by Mark Apostolou, stipulating that the Bank would return to the Board if there is any issue with regard to drainage, also subject to trying to resolve something with Mrs. Drew.

Board Members Voting Yes:

John Muly, Robert Young, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Leonard Sullivan, Kevin Thompson, and Neil Hamilton.

APPLICATION #32-2016 – McLaughlin, John and Joan – 18, 18 ½ Ocean Avenue – Block: 162 – Lot: 5 – Zone: R-2 – Roger McLaughlin is the attorney representing the applicants, John and Joan McLaughlin. Mr. McLaughlin had three witnesses to be sworn in Judge John McLaughlin, owner/applicant, Julie McLaughlin/Schmidt (daughter of the applicant's) and Jason Fichter of Insite Engineering, at the same time Mr. Cramer swore in Al Yodakis, Board Engineer/Planner. The Board accepted jurisdiction on the application Mr. Edward Liston, Jr. stood and addressed the board stating he is representing the Gablemans who are objectors to the application. Mr. McLaughlin had additional exhibits to be marked. He has four (4) picture boards, the first one is entitled 18 Ocean Avenue – McLaughlin Property – Exhibit A-1, the second is noted as Summer Rental, McLaughlin – Exhibit A-2, the third board references the neighbor to the West – Exhibit A-3, the fourth is titled property to the right (east), Exhibit A-4. He also asked to mark a plan prepared by the Grasso Design Group entitled the McLaughlin Residence dated 9/2/2016, as Exhibit A-5. He had reduced copies of that one of which he provided to Mr. Liston and several to the Board. He has a letter dated August 3, 2016 addressed to Mr. and Mrs. McLaughlin and signed by Donna Gablemann, marked as Exhibit A-6. He told Mr. Liston he e-mailed it to him earlier today. Exhibit A-7 is a copy of this Board's minutes of July 19, 2016 and those minutes mention on page 3 pertain to an application involving the property at 16 Ocean Avenue, immediately to the West, he has a copy for Mr. Liston and additional copies for the Board. Exhibit A-8 he asked a photograph prepared by Insite Engineering, entitled 18,

18 ½ Ocean Avenue, it is an aerial photograph with various markings prepared by Mr. Fichter of Insite Engineering with July 11, 2017 as the date. He showed it to Mr. Liston but he did not have a copy for him. The only other things would be if the Board would require it would be the application document. Mr. Cramer said we already have that as part of the record. Mr. Middleton prepared the original, Mr. Henderson prepared the amendment and then he prepared an amendment to the application. That takes care of the exhibits for now. He stated the Judge and Mrs. McLaughlin have owned this property since the 1970's. In the rear is a two-story structure, which is a two-family residential structure. There is a residential unit downstairs and a separate unit upstairs. In essence we have two non-conforming uses on the property in that we have two principal structures on one lot where only one is permitted by the Borough's Ordinance and one of those is a two-family home where only single-family homes are permitted in this Zone. The proposal that the applicant's are making to the Board is to subdivide the property into two lots, in the rear which would be Lot: 5.02 the existing two-family structure would be demolished and replaced by a single-family residential dwelling. The single-family home would remain on the front lot which would be Lot: 5.01. The front lot has an existing front yard setback violation of 17.6-feet where 25-feet is required and we would also seek a Variance from the percentage of building coverage which after the subdivision would be just shy of 33%, it's 32.9% where 30% is allowed in the Zone. The total lot coverage of that lot would comply. It would be the building coverage that would be a little less than 3% over. In terms of the rear lot 5.02 the Variances that we seek are from the requirement of the Ordinance that there be a frontage of 50-feet, there would be no frontage on the public Street and we also seek if the Board interprets what we are asking for is a Flag Lot, the Ordinance prohibits Flag Lots. We seek that Variance if the Board determines this is in fact a Flag Lot as defined by your Ordinance. In view of the fact that it would not have frontage except for the common driveway on the Street, we seek a permit from the requirement of the Land Use Law that there be frontage on approved Public Street. That's NJSA 55: b-34. 36. At the end of the day the proposal is to create two lots both of which would exceed 5000 square-feet which is the minimum lot size required and to take a situation where we have three residential dwellings on that lot and result in a new situation where we have two lots each of which would have one single-family residence on each lot. Mr. Liston stated he counted the Variances somewhere around four or five; most important is that in 2012 Manasquan banned Flag Lots. My clients have a house next door, one piece of property, one house and that's what we think this should be. We have a Planner who will address all the Variances. Mr. McLaughlin called Judge John McLaughlin to testify first. He and his wife have owned the property since July of 1970. They rented part of it in the beginning and he and his wife used the house in the front and his children have used the house in the back. If the Board approves the subdivision it is his intention to eliminate, demolish the rear structure. They would replace it with a single family residential structure. If the Board were not to approve the subdivision they would leave it the way it is. They would have a single family structure in the front and a two family residence on the rear of the lot. Before Hurricane Sandy they were in the process of renovating that rear structure. If the subdivision is not approved and that building stays they would finish those renovations. Judge McLaughlin was showed Exhibit A-6, this is a letter written to he and his wife by Donna Gablemann last August, in the letter Mrs. Gablemann offered to acquire the rear of the McLaughlin's property if they were interested in selling. No further questions. Mr.

Liston asked Judge McLaughlin if he ever replied to the letter in question. The answer was he did not. Mr. Liston asked him if he was willing to sell the rear of his property and he answered no. Mr. Liston said prior to Hurricane Sandy when was the last time the rear property, the two-family used or inhabited by anyone? Judge McLaughlin answered he didn't have the exact dates, he doesn't recall the dates but he did have it inhabited by Dan McCann who is a firefighter down here and he lived there, and then one of the correction officer Chiefs who worked over in Sea Girt Camp used it for awhile. Mr. Liston said the rear property was damaged in the storm of 2012 was it not? Judge McLaughlin said yes. Mr. Liston said prior to that you started to renovate it, Judge McLaughlin said correct. Mr. Liston asked how long prior to the storm did you start to renovate it. Judge McLaughlin said he didn't know. Mr. Liston said since the storm, the rear house has been essentially uninhabitable isn't that correct? Judge McLaughlin said no one has lived there. Mr. Liston asked its present condition. Judge McLaughlin said its present condition is it still needs to be finished, on the inside. Mr. Liston asked if anything has been done since the storm to board it up or prevent rodents or other vermin from occupying it. Judge McLaughlin said yeah, we put paper siding on it. Mr. Liston asked if he blocked up all the windows and doors, Mr. McLaughlin said question as to relevance Mr. Chairman. Neil said no C/O's have been issued, he doesn't know how much work has been done, we know and you know Mr. Liston as well the building has been sitting idle since Sandy. Mr. Liston said his clients will testify that it's become a nuisance and it's inhabited by rodents. Neil said I'm sure Code Enforcement is aware of it. Mr. Liston asked if the front house presently used and inhabited. Judge McLaughlin said yes the family uses it. We use it all year round. Next Mr. McLaughlin called Judge McLaughlin's daughter Julie Schmidt to testify. He showed her photographs that were entered as Exhibits which she proceeded to explain in detail. She explained the structure to the rear of her parents house is a two-family, it has a bottom apartment and the top apartment, each has two bedrooms, bathroom, kitchen a basic apartment. Great little apartments. That rear structure over the years has been used for family friends, and family. Renovations began on the rear property in 2011, the year before Hurricane Sandy. Explaining construction on the rear house, the bottom was renovated, they were going to open it more, two bedrooms in the back, they got a stop work order on it and then put in new permits right before Hurricane Sandy. The plumbing and electrical was replaced before the Storm. There were all new windows installed. Hurricane Sandy damaged the house, since that time no further renovations were performed. In fact her folks have been in the process of applying for variances necessary to subdivide the property and remove the rear building for quite some time now. Much longer than a year and a half. Neil asked if the rear unit had heat on both floors and she answered yes. Mr. Liston asked Ms. Schmidt what the present condition of the rear house is. Is it dilapidated does it have vermin in it? She said definitely not, it's in good condition, it needs to be fixed up, they were doing construction on it, we've never had vermin there, and our former neighbors told us she had vermin in her house. Mr. Liston asked if the house has been boarded up since Sandy. She answered not boarded, it's been wrapped up. Mr. Liston asked if when they started construction in 2011 did they get building permits and she answered yes. Mr. Liston asked why the stop work order issued. Ms. Schmidt answered she thinks the person who issued it wanted to make sure it was up to standards she guesses. Mr. Liston asked if the inspection was ever made. She was not sure. She believes her parents got a reimbursement with Sandy happening we were not

able to continue. Mr. Liston said so right now there are no open permits on the property. She said she is not sure. Mr. Liston said and the property has not been inhabited since October of 2012. Mr. Liston asked the intention of the owner if this application were to be granted, is it to sell off one of the two lots. Ms. Schmidt said the intention is to build a new one-family in the back and have more space. My parents now have grandchildren we want to have more space, more room for us. Mr. Liston said you still want to have two houses and you want the subdivision which means you or a subsequent owner could sell off one or the lot if they chose to do that, isn't that the purpose of a subdivision? Ms. Schmidt said no, oh no the purpose in our mind is to be able to build a one family house there, right now we can't. What we can do if we wanted to have a back house there is continue to renovate the house that's there, which we could do. It would be nice to have one-family where all the cousins could play together it's just more convenient. Mr. Liston said why is the subdivision necessary? Ms. Schmidt said because there is a rule in the Town that you can't. Mr. McLaughlin her attorney said there are two structures on one lot here that is a non-conforming situation so the question of whether or not the property can be sold or not is completely irrelevant to the application. Mr. Liston said isn't the purpose of a subdivision to create two separate lots. Mr. McLaughlin said you can say that and you can very well believe that, but subdivisions are not necessarily to purpose for sale. Can they be sold, yes of course and I believe the Board is well aware of that. Mr. Liston went on to cross examine the witness and Geoff Cramer interrupted him telling him it's irrelevant for this Board's purposes. Mr. Liston then said that was all he had. Next, Mr. McLaughlin called on Jason Fichter, Licensed Engineer/Planner in the State of NJ. The Board accepted his credentials after he gave his background and experience. He had appeared before this Board over a year ago. Mr. Liston asked Mr. Fichter if he sat for an examination to become a Planner. Mr. Fichter said it's funny he always clarifies that and tonight he didn't tonight, he is a Planner by exam. He became an Engineer in 2001 and a Planner in 2002. He is co-founder of Insite engineering since 2003. Mr. Fichter addressed a Google aerial photograph, outlined in blue spanning from N Potter to the Bridge, stating the subject property known as 18 - 18 1/2 Ocean Avenue has 10,271.4 square feet that goes from the right away line of Ocean Avenue to the edge of Stockton Lake, it does not include the riparian area. We are in the R-2 Zone, as stated earlier the applicant is here seeking subdivision approval to go from one lot to two lots. This application is for subdivision only and if approved a subsequent plot plan will be submitted for the construction that would occur on Lot: 5.02. He explained the existing conditions of the property. There are two existing non-conforming uses on the property which is significant. There are two principal structures on one lot, and there is a two-family home. It's important to consider this because the application that we submitted does not require any Use Variances whatsoever. The existing Use Variances are eliminated and none are required. So, we are proposing to create one lot fronting Ocean Avenue and a second lot which would be behind that essentially fronting Stockton Lake. Lot 5.01 on Ocean Avenue would be 5,000 square-feet which is what is required in the Zone and the single-family home would remain, Lot: 5.02 on Stockton Lake would be 5,271.40 square-feet and the two-family home would be demolished, proposed to be replaced by a new single-family home. We are seeking Variance relief but only for Bulk Variances, and the two existing non-conforming uses are eliminated by the subdivision configuration. Which again I would say is significant. There was a question in Mr. Yodakis' review letter back in October 2016, there was a comment

about utilities, not much to say here except if the existing utilities cannot be used, proposed utilities will be installed within easements that run along the common property line between lots 5 and lot 6. Access, there is an existing driveway easement that is shared with neighboring Lot 6, he believes that is Mr. Liston's client. This is evidenced by the property Deed and the Borough's Tax Map as well as the Survey that was submitted with the application. The driveway is 10-feet wide, the driveway meanders, the easement itself which is intended for the driveway is 10-feet wide and centered on the common property line, so there is 5-feet on either side of that property line. It extends from Ocean Avenue all the way back to Stockton Lake. We are requesting relief for four (4) Variances and in his opinion these are very modest based on the uniqueness of this lot and this application. The first one is a front yard variance on lot 5.01, that's the lot fronting Ocean Avenue. It's the existing home I evaluate this under the C-1 criteria, Hardship. 35-feet is required, 17.8-feet exist and it's an existing condition that won't change as a result of this application and there is no reasonable opportunity to cure this. The second variance is building coverage, this also relates to lot 5.01 which is on Ocean Avenue, 30% building coverage is required, they are proposing 33%, he evaluates this under both the C-1 and C-2, hardship and flexible C. We have the lot size where the Ordinance requires it, this is a zone that requires 5000 square-foot lots, and we are proposing that lot at 5000 square-feet. The development on it is existing, there is no additional development proposed at this time. Lot 5.02 we have maximized to accommodate any DEP restraints that will come at time of development for that lot. The subdivision is appropriate to better accommodate the separate dwelling units. Under the C-2 we have to consider this is an existing condition that's not going to change by this application. We're talking about building coverage on lot 5.01, what's important here is that is viewed from Ocean Avenue, there is going to be no aesthetic impact, the community and passersby see today what they would see then. The last two variances to him are related so he coupled them together in his testimony; this is for lot 5.02, that's the one back on Stockton Lake, will have no frontage. Related to this is variance request relief for having no frontage for lot 5.02. So, the two issues here, they sound alike, the lot doesn't have frontage on a Street and your Ordinance also talks about how wide it should be. You don't use width you use frontage, that's why they are so closely related. This variance comes from your Ordinance but it stems from the MLUL, 40:55D-35. The next subsection in the MLUL is subsection 36 addresses the purposes and intent of subsection 35. The purpose of that is emergency access. In this case there is an existing driveway easement; in essence there is really no change in the existing to the proposed condition when we talk about access to that back structure. That's why he feels this may be considered a hardship, although we could certainly support this variance under the C-2 criteria as well. In both cases there is a home behind a home and in both cases the existing access easement is there. One change for the better is they are eliminating a unit which will then reduce the need for emergency services to use that easement to get to the back. It's a unique application in that we are coming here asking to reduce the number of units on the property. We have a review letter from your Fire Official, Mr. Barkalow who reviewed the application, he made one simple request that is that the driveway easement be marked as a Fire Lane, and the applicant is certainly willing to accommodate that request. In terms of the hardship, the existing lot is more than the size of what's required in the zone yet the lot is only 50-feet wide. Due to the shape of the lot relative to its depth we have to request relief for proposed 5.02 not fronting Ocean Avenue. For your consideration there is case law "the claimed

hardship need not result in the inability to make any use of the property" (Kaufmann vs. Planning Board Warren Township citing Davis enterprises) typically the contention is that strict enforcement of the zoning ordinance in view of that properties unique characteristics imposes a hardship that may inhibit the extent to which the property can be used. He then addressed the C-2 Variance and the reason he believes it is a better planning alternative. The rear home has an existing condition there is a side yard setback variance today, you require 5-feet in your Ordinance it exists at 3.4-feet, that is also eliminated by this application. Talking about C-1 Variances his obligation is to demonstrate to the Board what the Hardship is and that satisfies our positive criteria. For the C-2 criteria he is also obligated to evaluate the purposes of planning and demonstrate at least one of those purposes is advanced by this application. He explained the purposes. He said currently in this neighborhood there are several properties throughout the neighborhood that have lots behind lots, there are nine (9) of them along Ocean Avenue between Potter and the Bridge. There are seventeen (17) access easements along this section of Ocean Avenue, ten (10) of them are on the applicants side of the Street, seven (7) of them are on the other side of the Street. The crux of this application is about lot 5.02 being without frontage, it already exists today, we are proposing to eliminate one unit and in his opinion this application is quite an improvement over the existing conditions, particularly in light of the public and the zone plan. Mr. Liston addressed Mr. Fichter if he is familiar with the Zoning Ordinance in Manasquan and said this is a Flag Lot, Mr. Fichter said it is absolutely not. Mr. Liston said look at Section 35-11.4, Ordinance 2118-12 adopted in 2012, the creation of Flag Lots is prohibited. Mr. Liston said the applicant in his public notice says the following "the applicant will also seek a Use Variance for proposed Lot: 5.02 for the provision of the Zoning Ordinance which prohibits the creation of Flag Lots and for a permit to permit a structure which does not abut a public street, pursuant to N.J.S.A. 40:55D-36. Mr. McLaughlin said for the record Mr. Liston the notice was revised from previously used to correct objections that you had made and therefore to cover those issues in the event this Board felt they were necessary. In Mr. Fichter's opinion that's not a Use Variance, and it's not a Flag Lot, but we did that obviously to protect our clients and any jurisdictional argument that you might have. Mr. Liston asked Mr. Fichter how this is not a Flag Lot. Mr. Fichter said Flag Lots are when your property, let's take this property as an example, it has a 50-foot frontage requirement so a standard Flag Lot would be you have a property that is 60-feet wide, typically it would be 25-feet wide but let's go down to 10 for arguments sake, you have a property 60-feet wide you would subdivide it, one property would have 50-feet of frontage on the Street, the other property would have 10-feet of frontage on the Street. The 50-foot property would have a house fronting that Street, the 10-foot frontage property would have a house behind the other house, the 10-foot strip is the flag stem, that's how the vehicle would access the rear lot, and then the rear lot would be larger to accommodate the home. In this case, we do not have the rear property with frontage on Ocean Avenue; this is an easement that is existing. Mr. Liston continued to cross examine Mr. Fichter about the definition of a Flag Lot. Mr. McLaughlin asked Mr. Fichter to read the definition of an easement, he said "a grant of one or more property rights by the property owner to and/or for use by the public, a corporation or another person or an entity". Which he thinks describes the situation here and it uses the same language, easement. Right-of-way is a strip of land occupied or intended to be occupied by a Street, crosswalk, railroad, road, electric transmission line, gas pipe line, water main, sanitary or

storm sewer main, shade trees or for other special use. No driveway. This is an easement; this is not a private right-of-way in his read of the Ordinance. Mr. McLaughlin said he has no further testimony. Peter Ragan asked Mr. Fichter to walk him through the easement meandering. Mr. Fichter said the easement is straight as an arrow, the driveway meanders. Peter asked him to walk him through the meandering. Mr. Fichter described it, looking at Mr. O'Malley's minor subdivision plot you notice from Ocean Avenue the driveway access which is basically at the base of that easement. The easement line has a line dot, line, dot; you can follow that all the way back. Two straight lines, straddling the property on Ocean Avenue to Stockton Lake, that's the easement. You will notice in one spot you have a dimension of 10-feet, just below that there's a dimension of 5-feet showing how wide it is on each property. The other lines get confusing when you look at it but when you focus your eyes you'll see the driveway, that starts at Ocean Avenue it is the solid lines that run back generally following the easement but the driveway meanders onto Mr. Liston's clients property. Then as it gets toward the back the driveway starts to meander back onto our property and then where that solid line outlining the driveway turns dashed that's where it goes from a hard surface to a gravel surface. You'll see the gravel surface meanders way over onto the neighbor's lot, which may be ok, but my client can't use that portion they can only use the portion within the 10-feet. A flag lot is when a property line heads out to the Street which we don't have here in the existing or proposed condition. Peter asked how many bedrooms does the back house have. Mr. Fichter said that he is not aware of the important focus is that it has two units in it. Peter said he is looking at the intensity of the two units, if it's two bedrooms, two bedrooms and then the proposed house would be four bedrooms it would be the same intensity. Mr. McLaughlin said there are two bedrooms and two down for a total of four bedrooms. Al Yodakis said just to get a couple of issues on the record, there is an existing side yard variance for the rear house. If the subdivision was approved and a new house was built, you would be eliminating that variance, correct? Mr. Fichter said correct. Al said and you would also be setting it back far enough to meet that front yard setback. They would have separate utilities. Greg Love asked if the intention is to eliminate the two family in the back and reduce the number of properties on the lot, the existing footprint of the front house is about 2,000 square feet, if it's 10,000 square feet for the entire property and if the intention is to have more room for the family how about a 1000 square foot addition behind the house, you wouldn't need to have two separate lots, you'd have plenty of room for the family and everyone could be happy. Mr. Fichter said in his discussions with the applicants that is not what they are looking to do but he can tell you this, in his discussions with them, he paid close attention. Neil said that is hearsay, you can swear on the bible but that's a moot point. Kevin Thompson made a motion to open the meeting to the public, seconded by Mark Apostolou, all in favor none opposed. Mr. Liston spoke out stating he wants to call a Planner. Neil asked the Board what they wanted to do. They decided to take a 5 minute recess and Neil stated if the Board can't wind this up by 9:30 they will have to carry.

Roll Call Following Recess:

Board Members Present:

John Muly, Robert Young, Greg Love, Mark Apostolou, Peter Ragan, Mark Larkin, Leonard Sullivan, Kevin Thompson and Neil Hamilton.

Neil told the audience that Mr. Liston and his Planner feel that they need more time than is allotted for us to adjourn this hearing at 9:30, we will carry this case to Wednesday,

September 6, 2017 at 7PM. There will be no re-noticing or re-publishing. We will take testimony from the public to get any impact from the public concerns so both attorneys can digest that and bring it back to the Board at the hopefully final meeting.

Audience members coming forward:

Thomas Styles – 10 Ocean Avenue

He has lived in Manasquan for 50 years. He knocked down his front house that was his choice, he thinks it's the right thing to do, we are not asking the McLaughlin's to do that. What he does object to very strongly is the subdivision of the property.

Betsy Orner:

26 Ocean Avenue – she also owns the property at 16 and 16 ½ Ocean Avenue. She wanted to clarify something; the houses at 16 and 16 ½ Ocean Avenue are not summer rentals. The front house is a rental; the back house is her daughter's house. There are signs up; there was a rental property next door at 14 Ocean Avenue. Also, as far as the back house goes, we have looked at that house in disrepair for at least eight (8) years. It has been through two layers of ty-vek, the tarp was all over her house. It's been a disgrace for many, many years. Her concern is if a new house is built, hopefully proper permits will be gotten. Her concern is that the new house has a stop work order is issued; it will sit like that again for many years. The McLaughlin children and grandchildren are lovely people. The Town has to step up and make sure all of the houses are up to Code and inspected in the neighborhood. She asked for the square footage of the new house. Neil said he didn't know if they provided that, but if the subdivision should go through it will be stipulated in their Resolution that they have to comply with all the Zoning regulations as far as setbacks, lot coverage, building coverage, building height. She said she would appreciate that, and she apologized for her builders getting onto their property but when there is only 5-feet between two houses it's a little tough to elevate houses without doing that. We've all had real consideration for our neighbors because we've all been through hell quite frankly with Sandy.

Mark Apostolou made a motion to close the public portion of the meeting, seconded by Kevin Thompson, all in favor none opposed.

Neil said we will see you on Wednesday, September 6, 2017 at 7PM.

Neil told the Board members to hang onto their material for the next meeting, the exhibits will be kept by the Board Secretary until the next meeting.

Correspondence – Neil told the Board there was a letter from Erna Drum requesting a second extension of time in which to complete her addition, she has completed the garage. Geoff said the Resolution gave her variance relief so she could do two things. Add a small addition to the rear of her existing house and also put up a two car garage. The one condition imposed by the Board is that the exterior shed had to be taken away. She did part of the work and still has to finish. Mark Apostolou made a motion to grant an extension of 9-months to complete the work, seconded by Robert Young. Kevin Thompson lives within 200-feet so he couldn't vote.

Mark Apostolou asked if the Board shouldn't have plans for a proposed house on a subdivision. Al said they did give us plans and are part of the packet. Neil said no matter what they would have to build according to all the Borough Ordinances. Neil said if they

fail for the subdivision they can lift the rear house and do work inside but they cannot change the footprint.

Kevin Thompson made a motion to close the meeting, seconded by Mark Apostolou, all in favor none opposed.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Mary C. Salerno". The signature is written in black ink and is positioned above the printed name and title.

Mary C. Salerno
Planning Board Secretary