

ZONING BOARD OF ADJUSTMENT

JANUARY 23, 2014

A regular meeting of the Board of Adjustment of the Borough of Belmar was held on the above date at approximately 7:30 p.m., in the Municipal Complex.

PRESENT: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, Greig, Ross, and Ms. Young

ABSENT:

ALSO PRESENT: Kevin E. Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on December 30, 2013 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Kennedy administered the oath of office to Mark Fitzgerald, Robert Cupoli and Thomas Brennan

NOMINATIONS FOR CHAIR PERSON

Ms. Young made a motion to nominate John Lisko as Chairman, which was seconded by Mr. Hutchinson and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

NOMINATIONS FOR VICE CHAIR PERSON

Mr. Lisko made a motion to nominate Judy Young as Vice Chair, which was seconded by Mr. Fitzgerald and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

Mr. Fowler made a motion to waive the reading and approve the resolution appointing Kevin E. Kennedy, Esq. as the Board's attorney, which was seconded by Mr. Cupoli and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

Mr. Brennan made a motion to waive the reading and approve the resolution appointing April Claudio as the Board's secretary, which was seconded by Ms. Young and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

Mr. Kennedy announced there would be a change in the agenda order.

D'JAIS – 1801 OCEAN AVENUE

Mike Rubino, attorney for D'Jais, stated there are some attorneys here that may be objecting to the notice for the meeting and whether the Board has jurisdiction. He would like to discuss those issues and then carry the application to the February 27th meeting with or without re-notice depending on the discussions. Mr. Kennedy stated he would like any attorneys who are here representing objectors to make them known and the principles of D'Jais made known to see if there are any potential conflicts. Mr. Rubino stated the principles of D'Jais are Lewis Connors, Bill Luddekke, and Frank Sementa.

Thomas J. Hirsch, stated he is the attorney for Mr. & Mrs. Gerry Rabadeau, 2002 Surf Avenue who are objectors to this application.

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David Lonski, stated he is the attorney for William and Shannon Merkler, who are objectors to this application.

George McGill, stated he is the attorney for Adam Benosky, 1806 Surf Avenue, who is an objector to this application.

The Board members did not have any known conflicts with any of these parties. All three attorneys stated they did not have any issues with the notice. There was nobody from the public who had any objections to the notice. Mr. Kennedy explained the applicant is requesting the meeting be carried without any further notice.

Mr. Fowler made a motion to carry this application to the February 27, 2014 meeting, which was seconded by Mr. Hutchinson and approved unanimously.

At approximately 7:50 pm the Board took a brief recess. The Board reconvened at approximately 7:55 pm.

PRESENT: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, Greig, Ross, and Ms. Young

ABSENT:

ALSO PRESENT: Kevin E. Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

Mr. Hutchinson made a motion to waive the reading and approve the minutes of the December 19, 2013 regular meeting, which was seconded by Ms. Young and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

Mr. Fowler made a motion to waive the reading and approve the resolution granting approvals to Theresa Raskauskas, 912 13th Avenue, which was seconded by Mr. Hutchinson and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

Mr. Fowler made a motion to waive the reading and approve the resolution denying the application of Bartholomew Mattaliano, 407 13th Avenue, which was seconded by Ms. Young and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

Mr. Fowler made a motion to waive the reading and approve the resolution granting approvals to Eugene Sova, 227 14th Avenue, which was seconded by Mr. Hutchinson and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

MARC SCHUTZBANK – 103 12TH AVENUE

Appearing on behalf of Mr. Schutzbank was his architect, Tim McCorry. Mr. Kennedy stated Mr. Schutzbank gave power of attorney to Mr. McCorry so he could represent him at this meeting.

Mr. McCorry stated Mr. Schutzbank is the owner of the property and does not live there. It is not currently occupied. The property has a single-family home. The proposal is to build a second story addition over the existing one story home. The addition would stay within the existing footprint of the first floor. Seeking variances for: lot size, front yard setback, total side yard

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setback, side yard setback, building coverage and impervious coverage. All of these variances are existing conditions that will not change.

Mr. McCorry added that the property received some damage from hurricane sandy. They had a structural engineer inspect the property and there will need to be some structural work done to the first floor in order to support the new second floor.

Board Questions:

Mr. Fowler asked what the new height would be. Mr. McCorry stated it would be 29.10 ft to the top of the ridge, measured from average grade, which does not need a variance. Mr. Fowler asked about water runoff. Mr. McCorry stated they will add roof leaders and gutters to direct rain water onto the site. Mr. Fowler asked what materials would be used on the house. Mr. McCorry stated they would use a cement fiber board siding.

Mr. Cupoli asked if the owner has considered installing drywells. Mr. Schutzbank stated he would agree as a condition of the application that the leaders and gutters would go into a drywell.

Mr. Fitzgerald asked if the piece of the house that extends into the driveway is existing. Mr. McCorry stated it is and is not being changed or expanded. Mr. Fitzgerald asked if the screened porch is existing. Mr. McCorry stated it is not. Mr. Fitzgerald asked if the screened porch has windows does that require a variance. Mr. Bianchi stated they can install temporary windows with screens for the winter but they have to come down in the summer.

Mr. Hutchinson suggested rain barrels as an option for water runoff. He asked if the mechanicals will be moved from the basement to another level. Mr. McCorry stated Mr. Schutzbank just replaced all of the mechanicals and is hesitant to move them at this time. Mr. Hutchinson commended Mr. McCorry for showing solar panels on the application. Mr. McCorry stated he is recommending other construction details to the house to help with energy efficiency. Mr. Hutchinson asked to clarify that all of the variances being requested are for existing conditions and there are no new variances. Mr. McCorry agreed.

Mr. Greig asked how many bedrooms are in the house today and what it will increase to. Mr. McCorry stated there are two and it will increase to four. Mr. Greig asked if there is a need for a parking variance. Mr. McCorry stated they have a driveway that will comply. There was discussion on whether or not the portion of the house that protrudes into the driveway would prohibit a car from going around it towards the garage and whether or not a parking variance would be required. It was determined that there was not enough information to determine how many vehicles can fit into the driveway, therefore Mr. Lisko suggested a parking variance be added to this application.

Mr. Greig asked for the location of the a/c units. Mr. McCorry stated he has not determined that yet but would comply with the ordinance.

Mr. Ross asked if the addition could be added with only a setback of .5 feet. Mr. Bianchi stated the portion of the house on that side could not have any windows because of the setback. Mr. Bianchi asked how far the proposed deck will extend into the rear yard setback, only 11 feet is allowed. Mr. McCorry stated he didn't have the dimensions but would agree to comply with the ordinance. Mr. McCorry understood that he will need to amend the plans prior to submitting construction permits showing the windows on the western elevation have been removed.

Mr. Lisko referenced a note on the plans that stated the materials to be used on the house are subject to budgetary restraints. Mr. McCorry stated the details listed are what they want to use but are not being held to that.

Public: none

Board Comments:

Mr. Hutchinson stated he is in favor of the application.

Mr. Brennan agreed.

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Mr. Fitzgerald stated he has no objections but felt it would have been nice to have the homeowner present.

Ms. Young stated she would be in favor of the application and thinks it will be a nice addition for the town.

Mr. Cupoli stated he has no objection to the application.

Mr. Fowler stated he is pleased with the drawings given the non-conformities are not being exacerbated and the plans are tastefully done.

Mr. Lisko agreed with Mr. Fowler, and added that he appreciates it's not being over built and that Mr. McCorry listened to the Board's suggestions.

Ms. Young made a motion to approve the application, which was seconded by Mr. Fowler and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler, and Ms. Young
NAYS:

Ms. Young made a motion to adjourn the meeting, which was seconded by Mr. Fowler and approved unanimously.

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A regular meeting of the Board of Adjustment of the Borough of Belmar was held on the above date at approximately 7:30 p.m., in the Municipal Complex.

PRESENT: Messrs. Hutchinson, Brennan, Ross, Lisko, Cupoli, Greig and Fowler

ABSENT: Ms. Young & Mr. Fitzgerald

ALSO PRESENT: Kevin E. Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on December 30, 2013 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Greig made a motion to waive the reading and approve the minutes of the January 23, 2014 regular meeting, which was seconded by Mr. Cupoli and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Ross, Lisko, Cupoli, Greig and Fowler

NAYS:

ABSTAIN:

Mr. Brennan made a motion to waive the reading and approve the resolution granting approvals to Marc Shutzbank, 103 12th Avenue, which was seconded by Mr. Hutchinson, and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Ross, Lisko, Cupoli, Greig and Fowler

NAYS:

ABSTAIN:

Mr. Hutchinson made a motion to waive the reading and approve the resolution dismissing the application of D'Jais Bar and Grill, 1801 Ocean Avenue, which was seconded by Mr. Fowler and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Ross, Lisko, Cupoli, Greig and Fowler

NAYS:

ABSTAIN:

TED PROTONENTIS – 106 15TH AVENUE

Appearing with Mr. Protonentis was his architect Mark Marcille.

Mr. Protonentis stated he has owned the property for two months. The site currently has two separate side by side dwellings. Unit 1 has two bedrooms and one bathroom and is not occupied right now. Unit 2 is a studio apartment with one bedroom and one bath and was occupied until December 1, 2013. His proposal is to demolish the two structures and build a new single-family home that will be owner occupied.

Mr. Marcille stated they are requesting a variance for building coverage. The first floor would be the living area with access to the detached garage. The second floor would have the three bedrooms, a laundry area, and two bathrooms. The third floor or half story would have an open living area.

Board Questions:

Mr. Fowler asked Mr. Protonentis if the house would be his primary residence. Mr. Protonentis replied yes. Mr. Fowler asked about water runoff. Mr. Marcille stated there would be leaders and gutters. Mr. Fowler asked if a drywell could be installed. Mr. Marcille stated they are in compliance with impervious coverage and therefore would request that they work with the Borough Engineer to determine what if any type of storm water management system should be installed. The Board agreed.

Mr. Greig asked about the location of the condensing units. Mr. Marcille stated they will be behind the house and will comply with the 5 ft. setback requirement. Mr. Greig asked if the

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width of the driveway is 8 feet and if the projections on the house would interfere. Mr. Marcille replied no because they are on upper levels of the house.

Mr. Cupoli asked what type of elevator would be used. Mr. Protonentis stated he is looking at a hydraulic elevator. Mr. Cupoli asked if there would be a basement. Mr. Marcille stated they are proposing a full basement but it is not depicted on the plans. Mr. Cupoli asked if they considered putting the electric underground. Mr. Protonentis stated if he can connect to the utility pole in the rear of the property then yes he would like to put the electric underground.

Mr. Ross asked about a note the Zoning Official listed on the minor land use application regarding a variance for the second floor porch to have a roof over it. Mr. Bianchi stated another variance is required for the projection on the east side of the house because it's within the five foot setback. Mr. Protonentis stated there's another variance he needs for the size of the half story.

Mr. Brennan asked Mr. Protonentis if he looked at any other houses in town when designing this home. Mr. Protonentis replied yes.

Mr. Hutchinson asked if the distance between the house and garage is greater than 10 feet. Mr. Protonentis replied yes.

Mr. Lisko asked what it would take to meet the requirements of the half story definition. Mr. Protonentis stated the property is small and he is trying to maximize the deck space on the property. Mr. Marcille stated he would have to eliminate the second floor deck completely to comply with the ordinance. Mr. Lisko asked if they reduce the size of the third floor porch would that eliminate the variance for the second floor porch. Mr. Marcille stated if he were to comply with the half story definition and remove the third floor porch then they could create more interior living space on the third floor. They would like to have the porch rather than more interior living space.

Mr. Protonentis stated there are other covered second floor porches in the area and he would like to have it too. Mr. Lisko stated it appears the other second floor porches in the area aren't completely covered.

Mr. Fowler asked if there will be landscaping. Mr. Protonentis replied yes and stated he has not created a plan yet. He added that he would agree to plant a street tree.

Public

Mark Ganguzza, 110 14th Avenue, stated he understands the variances but approving this application would better the south end of town. He added that he doesn't think the second floor porch variance is an issue.

Andrea Ganguzza, 110 14th Avenue, stated we want to encourage people to come to town and live here and build aesthetically pleasing houses. What they are going to put up will be so much better than the two summer rentals that are there now. She added that she would like to see the variances granted.

Gene Clapsis, 1304 B Street, stated he has seen Mr. Protonentis's other house and said the landscaping will be done very well.

Mr. Kennedy asked if the pre-existing multi-family use would be abandoned if approvals are granted. Mr. Protonentis agreed.

Board Comments

Mr. Fowler stated he is very pleased that the neighbors that came forward had good things to say. He is also pleased that two rental units will be demolished and will create only one structure. He stated he would vote in favor of the application.

Mr. Greig stated he would like a condition that there is a deed restriction for the elimination of the two-family. Mr. Protonentis agreed. Mr. Greig stated this would be a great improvement to the neighborhood.

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Mr. Cupoli stated this will be a big improvement to the area and they did a great job with the plans.

Mr. Ross stated he likes the style of the house and the three porches and would be in favor of the application as it is.

Mr. Brennan agreed with the other Board members and also added that he really likes the design of the house. He stated he is very appreciative that they will work on the water runoff.

Mr. Hutchinson stated he likes the fact that they made no unreasonable requests. He added he was originally concerned about the third floor porch but after realizing it's a small lot and there is limited outdoor area he has no issue with it. He suggested a rain barrel or rain garden be installed to help with water runoff.

Mr. Lisko stated he was concerned about the third floor deck but given there won't be much outdoor space and hearing from the neighbors he would be in favor of the application.

Mr. Cupoli made a motion to approve the application, which was seconded by Mr. Greig and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Ross, Lisko, Cupoli, Greig, and Fowler

NAYS:

ABSTAIN:

At approximately 8:25 pm the Board took a recess. At approximately 8:40 pm the Board reconvened.

VINCE DISPOTO – 110 FIFTH AVENUE

Appearing with Mr. Dispoto was his architect Steven Kowalski and his attorney Lee Levitt.

Mr. Kennedy pointed out that only six of the seven members present are eligible to vote on this application. Mr. Levitt stated his client understands that and wishes to proceed with his application.

Mr. Kennedy pointed out that this application is a continuation from previous meetings and asked if any Board members who were not present at the previous meetings listened to the meeting recordings. Ms. Claudio stated Mr. Brennan, Mr. Lisko and Mr. Fitzgerald listened to the recordings and have signed a statement stating such.

Attorney William Shipers stated he is present to represent neighbors: Dennis and Diane Steadman and John and Carol Denny who are objectors to this application.

Mr. Kowalski stated he has revised the plans since the last meeting which was in December and has since revised the cover sheet on those plans which he submitted to the Board. He indicated the changes that were made between the two cover sheets are indicated in red on the new cover sheet. He corrected some of the numbers on the zoning chart.

Mr. Kowalski stated the width of the proposed rear house will be the same width as the existing structure. The existing structure has a height of 18 feet and the proposed is 34 feet. The existing rear house is 1058 sq. ft. and the proposed is 1637 sq. ft. The existing hot tub and shed in front of the existing rear structure will be removed.

Mr. Levitt and Mr. Kowalski stated there are two neighboring apartment complexes and other large homes in the area. They feel the proposed structure would not be a detriment to the neighborhood.

Mr. Kowalski stated the proposal would fit within the neighborhood and be more aesthetically pleasing than the existing structure.

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Mr. Levitt asked Mr. Kowalski to discuss his opinion on whether or not the proposed structure would block any air or light for the neighbors. Mr. Kowalski submitted a new exhibit, which is a computer generated model showing shadow casting of the sun at different times of the year and day. The shadow mostly casts towards the northwest. The longest shadows would be after Labor Day when they would not affect the neighbor's pool because they will most likely not be using the pool at that time. The shadows would not cast over the entire neighbor's pool area as well.

Mr. Kowalski stated he understands he will have to amend the plans to reduce the size of the dormer and add a window to it so not to need a variance for it. Mr. Kowalski added that the proposed structure would be code compliant which the existing house is not which better the safety of the occupants. He feels the proposed use would be a much better use than what is there now.

Mr. Levitt and Mr. Kowalski stated this is a minimum expansion of a non-conforming use because it is just a slight increase in the footprint of the house and the height. Mr. Levitt submitted a photograph showing the view of the back of his rear structure from the property behind him. Mr. Kowalski used this photo to reflect his point that the proposed structure would be a more desirable view for the rear neighbor as compared to what exists now.

Mr. Shippers asked Mr. Kowalski if he is a certified planner. Mr. Kowalski replied no. Mr. Shippers felt the testimony of Mr. Kowalski about the proposed height of the structure being comparable to the garden apartments next door is not favorable to the R-75 zone which requires single-family use. Mr. Shippers asked Mr. Kowalski to explain why he feels this proposed use is suitable for the property. Mr. Shippers asked what special reasons could be used to grant approval of this application. Mr. Levitt felt they have provided testimony to that affect. Mr. Shippers asked Mr. Kowalski why he cannot design a building that conforms to the Borough's accessory dwelling ordinance. Mr. Kowalski stated the existing structure is larger than what the ordinance allows and they don't want to go smaller. Mr. Shippers stated he wants them to realize that they should be proposing a structure that would be more in conformance with the R-75 zone. He was concerned about the structure affecting his client's view of the sky with such a large structure so close to the property line.

Mr. Shippers asked where the heating equipment would be located. Mr. Kowalski stated they would be in the attic. Mr. Shippers asked where the a/c units would be located. Mr. Kowalski stated they have not decided if there will be a/c or not but if they do they will be located on the west side. Mr. Shippers asked if there is a parking variance required.

Mr. Levitt asked for a brief recess at 9:51 pm. At approximately 9:58 pm the Board reconvened.

Mr. Levitt asked Mr. Dispoto several questions. Mr. Dispoto stated he purchased the property in 2002 and used the front house as his summer home and rented the rear structure. He stated there was one tenant in the rear structure for three years and another for four years. He only rents to a year round tenant, no seasonal tenants. He stated he had obtained an SBA Loan to rebuild the rear structure but the time to use it expired, however he was granted an extension until April 16th. The loan was granted due to damage sustained from Hurricane Sandy. Mr. Shippers interjected stating that tenants and funding have no legal bearing on an application. Mr. Levitt asked Mr. Dispoto if he would be able to rebuild the rear structure without the loan. Mr. Dispoto replied no. Mr. Levitt asked Mr. Dispoto if the application was denied and the structure was repaired it would it not then meet fire and safety codes. Mr. Shippers objected to this statement. Mr. Dispoto stated the proposed structure would be much safer than renovating the existing structure. Mr. Shippers pointed out that the delays in this application that affected Mr. Dispoto's funding were his own doing because he originally appeared before the Board without an architect or an attorney. Mr. Dispoto disagreed and stated that part of the delay was the Board taking into consideration objections from neighbors and they allowed him the opportunity to scale back the plans. Mr. Shippers asked Mr. Dispoto why he could not build a conforming 18 feet high structure. Mr. Dispoto stated he needs the proposed structure to address safety concerns, bring in a quality tenant and give him a good return on his capital investment. Mr. Dispoto added he would like to have a house that fits with the neighborhood versus having a house that looks like a shed. He also added that his two structures combined would be smaller than the new structures being built next door.

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Mr. Lisko asked Mr. Kennedy to just give the Board a brief explanation on how they should weigh the criteria for granting a use variance application.

Board Questions

Mr. Hutchinson asked Mr. Kowalski how the plan would look when he reduces the size of the dormer. Mr. Kowalski stated if he does that it would remove the livable floor area on that floor. Mr. Hutchinson felt that the third floor could be removed and could change the roofline to reduce the height of the structure to approximately 24 feet which may be looked upon more favorably and may reduce the number of objections. Mr. Kowalski stated if he did a 6 on 12 roof pitch and two stories while meeting the flood elevation requirement the height would then be about 26 feet. Mr. Hutchinson felt that would be more comparable to an 18 feet high structure above the base flood elevation than what was originally proposed.

Mr. Brennan asked Mr. Kowalski if he did a shadow analysis for the winter. Mr. Kowalski stated he did not but knows the shadow would be extended more. Mr. Brennan asked Mr. Dispoto if he did a study on how much rent he would get if he had a smaller structure. Mr. Dispoto stated the rent is determined on the number of bedrooms and overall square footage. He added he would like to get more rent than he previously was getting, given the amount of money that will go into building the structure.

Mr. Ross asked Mr. Kowalski if he could make an aesthetically pleasing 24 feet high structure. Mr. Kowalski stated he could but it would be one story with only one bedroom and maybe a small second bedroom. Mr. Ross asked why this structure is uniquely suited for this lot. Mr. Kowalski stated it is a better looking structure and if going to keep a nonconforming rear structure than its better to have one that is aesthetically pleasing. Mr. Ross asked how the application would affect population density. Mr. Kowalski stated it would be a wash, no impact, and same number of bedrooms. Mr. Ross stated previous testimony was that the Disputes were going to live in the rear structure. Mr. Levitt stated that was the plan but given the reduced size of the structure and the fact there is no longer room for an elevator that idea has changed. Mr. Ross asked how the shadow would affect the arborvitaes the neighbor planted. Mr. Dispoto stated those are right on the property line and are already shadowed by the existing structure. Mr. Levitt added he believes arborvitaes are known for being able to grow in shaded areas. Mr. Ross asked if a parking variance is required. Mr. Bianchi stated three parking spaces are required. Mr. Dispoto stated he has room for six parking spaces.

Mr. Cupoli asked Mr. Kowalski if the second floor could be amended to fit three bedrooms on it. Mr. Levitt asked Mr. Kowalski if he could design a structure that would be 27 feet and get the three bedrooms. Mr. Kowalski stated it could be possible.

Mr. Greig asked if the existing structure has to be torn down. Mr. Dispoto replied yes. Mr. Bianchi stated it is substantially damaged. Mr. Greig suggested doing something to make the rear of the structure more aesthetically pleasing. Mr. Levitt stated they could put shutters on the windows.

Mr. Fowler asked Mr. Levitt if he was aware of the objections to the application when he was hired by Mr. Dispoto. Mr. Levitt stated he was aware of the objection to the overall size.

Mr. Lisko asked Mr. Levitt if he reached out to the neighbors or their attorney. Mr. Levitt stated he spoke to Mr. Steadman and agreed to have an open dialogue with him. He would like the Board to take a straw poll on the 27 feet height and then confer with Mr. Steadman's attorney.

Mr. Dispoto stated he has spoken to Mr. Steadman and he told him he doesn't want to see any structure there.

Mr. Shipers asked the Board to think hard about what they are going to do, what the variances are, and what the affect will be on the town before voting. He added the Steadman's are not opposed to the structure being rebuilt but damage from the hurricane and financial matters are not enough to grant approvals. He asked the Board to be cautious about setting any precedents.

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Public

Kanelia Dallaportas, 1002 Main Street, stated they should be allowed to build a beautiful home and do what is right for them. Also there are only two people here to object, what about the other neighbors.

Dennis Steadman stated he has no objection to the applicant rebuilding what they have to code, which would be a structure at 20.5 feet. The shrubs in his yard are not arborvitaes but Jupiter's which require 6 hours of sunlight. He does not want to see a rental property so close to his property line being expanded and the occupancy potentially being increased. He feels allowing the expansion is a step in the wrong direction.

David Yale, 113 4th Avenue, stated he supports their right to rebuild and build an aesthetically pleasing and safer structure, however he is concerned about them rebuilding what is another primary residence on a property with a primary residence already. Feels the proposed height is ridiculous and there is no credence on the shadow exhibit.

Mr. Fowler asked Mr. Shipers how his other clients, who are not here, would feel about the reduction in height. Mr. Shipers stated he believes they are on the same page as Mr. Yale and Mr. Steadman. He added there are no positive criteria to grant this application.

Mr. Kennedy asked if the Board is voting on what was presented or what is being amended. He is not in favor of a straw poll as Mr. Levitt had requested.

Mr. Hutchinson asked if the Board could entertain the amended plans or should they want to see amended plans first. Mr. Bianchi suggested that the Board see revised plans before voting. Mr. Kennedy agreed. Mr. Levitt asked if the resolution could be worded to allow a stick frame structure with the 27 feet height and with the architectural look of it to be approved by the Borough's Planner. Mr. Kennedy felt that with this being a use variance application and with known objectors it would be in the Board's best interest to see the amended plans so it is very clear as to what the Board is voting on.

Mr. Levitt stated promotion of a desirable livable structure is a special reason for granting a use variance. Building a new structure that is code compliant and safer is better. The positives outweigh the negatives and special reasons have been provided. They are simply asking to build 27 feet high structure versus rebuilding the existing 20 feet high structure with the two ft. flood elevation increase which is only a difference of four feet.

Mr. Shipers disagreed. He stated the existing structure is 18.5 feet which would then be only 20 feet if rebuilt. He added that the Board is voting on a 35 ft. high structure because there has been no agreement to reduce the height. He stated Mr. Dispoto is expanding a non-conforming use for financial reasons and there is no merit to granting this application. He stated if it is granted there will be appeals filed against it.

Board Comments

Mr. Hutchinson stated the Board does not set precedent and reviews each application individually. He stated he would be inclined to vote against a 34 ft. high structure but doesn't think 27 feet would be unreasonable and would probably be more favorable.

Mr. Brennan stated he sympathizes with the Dispotos but could not approve a 34 ft. structure. He added that if this structure was destroyed by fire he would not be able to rebuild at all and therefore should be grateful he is able to rebuild anything at this point. All the discussion about safety and attractiveness of the building can be done while still meeting the code requirements.

Mr. Ross stated he remembers saying at previous meetings that if the house was closer to what exists now it would be easier to approve. He added that the master plan is to phase out rear homes, especially large ones. There have been three meetings talking about a structure with 34 ft height and some discussion about 27 feet but hasn't seen it. He cannot vote in favor of 34 ft. and cannot vote in favor of 27 feet without seeing it.

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Mr. Greig stated he would like to see all of Belmar get rebuilt after Hurricane Sandy. He would like to see them rebuild what they had but more aesthetically pleasing. Thinks it should be limited to two bedrooms. He would not want to vote on something without seeing the plans.

Mr. Fowler stated the Board has never questioned that the current structure does not need to be rebuilt. We have given heartfelt comments and understand the financial hardship; however we have suggested in three conversations that the height be reduced. The use of the structure has changed from being owner occupied with an elevator because of diabetic needs to now being built to maximize rental income. Makes him wonder why they want to be in Belmar and what is important to them. The neighbor has been adamant about what he wants and how he feels it should be built to code. He feels 20 ft high structure is very acceptable and anything above that he would not be in favor of.

Mr. Lisko echoed the Board. Doesn't think he could approve plans without seeing them and doesn't see the positives outweighing the negatives.

Mr. Dispoto stated if he is limited to building the structure to the height allowed by code then he has to do a flat roof and there is no where to put mechanicals. He asked if he does this can he still expand 6ft closer to the front house. Mr. Lisko stated they would need to see the plans because it would still be an expansion.

Mr. Levitt stated he would like to carry the application to allow for revisions to the application and plans. Mr. Kennedy stated if there are new variances then they will have to re-notice.

Mr. Brennan made a motion to carry the application to the March 27, 2014 meeting, which was seconded by Mr. Hutchinson and approved unanimously.

Mr. Cupoli made a motion to adjourn the meeting, which was seconded by Mr. Brennan and approved unanimously.

ZONING BOARD OF ADJUSTMENT

MARCH 12, 2014

A regular meeting of the Board of Adjustment of the Borough of Belmar was held on the above date at approximately 7:30 p.m., in the Municipal Complex.

PRESENT: Messrs. Fitzgerald, Greig, Lisko, Ross, Fowler and Ms. Young

ABSENT: Messrs. Hutchinson, Cupoli and Brennan

ALSO PRESENT: Kevin E. Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on February 14, 2014 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Greig made a motion to waive the reading and approve the minutes of the February 27, 2014 regular meeting, which was seconded by Mr. Fowler and approved by the following vote:

AYES: Messrs. Fitzgerald, Greig, Lisko, Ross, and Fowler

NAYS:

ABSTAIN: Ms. Young

JAMES & LAURA O'HARA – 2008 OCEAN AVENUE

Appearing with Mr. and Mrs. O'Hara was their architect Robert Coleman. Mr. O'Hara stated he purchased the property in September 2013. The property has a front house and a rear garage/apartment. The front house is a two story house with five bedrooms and two bathrooms and is currently unoccupied. The garage/apartment is a single story house with one bedroom and one bathroom and is currently unoccupied. Mr. O'Hara submitted photographs of the existing site to the Board.

Mr. O'Hara stated the homes were vacant when he purchased them. They have been vacant since Hurricane Sandy. The photographs show the house has not been maintained. There were no utilities turned on. He would like to retire and move into the home full time sometime in the near future. The proposal is to expand the front house to be 2 ½ stories to fit in with the other homes on Ocean Avenue. Also would like to expand the rear structure by adding a half story to it. Requesting variances for some existing conditions such as setbacks for the front and rear structures. The footprint of each structure will not be changed, only building up. There is a slight increase in the impervious coverage but it is less than one percent. The purpose of this is to square off a portion of impervious section at the rear of the house. Also seeking a variance for the half story on the front house because it does not comply with the Borough's definition of a half story. There is no plan to rent out the back structure; it will be used by their family.

Mr. Coleman submitted a photo board showing the existing floor plans and explained the existing and proposed floor plans. He explained the number of bedrooms in the front structure would remain the same. He explained the exterior elevations and how it will fit in with the character of the neighborhood. He submitted two photographs of the existing porch and how it sits in comparison with neighboring porches. Their new front porch will be in line with neighboring porches on each side. They do not have to elevate the house. The exterior of the rear house will match the front house. The elevation shows a garage door on the rear structure, which the previous owner did not use. The O'Hara's plan on reopening the door to use it for one car. The half story will have a kitchen, one bedroom, and a bathroom. The first floor will just have a small room, storage area, and a bathroom.

Board Questions:

Mr. Fowler asked about storm water runoff. Mr. O'Hara stated he would have the roof leaders and gutters on both structures go into a rain garden. He also added that the existing concrete driveway would be removed and replaced with pavers. Mr. Fowler asked where the mechanicals will be located. Mr. O'Hara stated the condensers will be located in the rear of the front house. The condenser for the rear structure would be located near the outdoor shower.

Ms. Young asked if any of their neighbors had flooding from Hurricane Sandy. Mr. O'Hara replied yes. He added that only the rear structure sustained water from the storm.

Mr. Ross asked for clarification if the half story does not comply with the Borough's definition. Mr. Bianchi replied yes. Mr. Ross asked if they could comply. Mr. Coleman stated it has always been in their plans to do the half story the way it is on the plans to maximize the amount of room they would have and

ZONING BOARD OF ADJUSTMENT

MARCH 12, 2014

to allow for an elevator to be put in. Mr. Ross asked about the rear structure. Mrs. O'Hara stated the size of the living space in the rear structure will be reduced by reopening the garage door and using it as a garage.

Mr. Greig referenced a note on the zoning officer's denial that talked about a second floor deck not being in compliance. Mr. Coleman stated that no longer complies. Mr. Greig asked if a dormer variance is required. Mr. Coleman replied yes. Mr. Greig asked if there will be a kitchen on the first floor of the rear structure. Mr. O'Hara replied no, it will be on the second floor and added that there is no gas to the rear structure. Mr. Greig asked if the Board could ask for a deed restriction stating that the rear structure will not be rented. Mr. Kennedy stated the Board has done that before, it can be a bit tricky and becomes an enforcement issue with the town; however the town has done it before. Mrs. O'Hara was concerned that doing a deed restriction would affect the value of the property if they were to ever sell it. Mr. O'Hara stated they would agree to the deed restriction.

Mr. Fitzgerald asked what about the flood elevation. Mr. Bianchi stated it is not in a flood hazard zone. Mr. Fitzgerald asked if the rear structure could comply with the setback requirements. Mr. O'Hara stated it could not unless they knock it down and rebuild it. Mr. Fitzgerald asked if the cantilever on the second floor could be removed to increase the setback another 18 inches. Mr. O'Hara stated he doesn't think it would be visually appealing but if the Board would prefer that he would agree to it. Mr. O'Hara stated that there is an existing overhang on the garage that already extends like that and he would agree to not extend it any further and will not encroach onto the side setback anymore.

Mr. Greig asked if the gamble roof could be adjusted so that the overhang doesn't extend anymore into the side yard setback than the existing roof overhang does. Mr. Coleman stated he could do that.

Mr. Lisko asked if the rear structure would be heated. Mr. O'Hara state there will be minimal heat just for the half story and the bathroom on the first floor. The number of bedrooms would stay the same at one and the overall size of the living space would be smaller than the existing. The number of bathrooms would be increased from one to two. Mr. Lisko asked if there are any criteria that can be provided to reflect the benefit of these changes on the neighborhood. Mr. O'Hara stated there are other properties in the area with rear structures and it would no longer be a rental. Mr. Coleman stated the overall renovations and expansion to both structures are better looking and more modern than the existing structure and will conform to the other homes in the neighborhood. Mrs. O'Hara added that the existing structures are not occupied now, was a rental property and a nuisance before they purchased it, and is an eyesore. Removing the rental aspect and fixing it up will be good for Belmar.

Public Comments

Martha Maselko, 102 North Blvd., stated she thinks the proposal of the front house looks wonderful. Ms. Maselko had a letter from a neighbor who was unable to attend the meeting. Mr. Lisko stated the Board cannot accept letters from people who are not present because the applicant does not have the opportunity to speak to that person. Mr. Kennedy agreed. Ms. Maselko stated the neighbors are concerned about flooding in the back and would like to see water runoff addressed. She was concerned about the rear structure and front structure being larger and not good for the neighborhood. She was also concerned about increasing the size of a rear apartment when the town wants to get rid of them.

Nancy Marcott, 2006 Surf Avenue, stated the front house will look beautiful but has concerns about the rear structure because it is very close to the three neighboring properties. She was concerned about privacy issues with the height of the rear structure going up.

Kanelia Dallaportas, 1002 Main Street, stated the rear structure should not be an issue because it won't be rented but if the neighbors do have a concern about noise or anything then they can call the police department. She would like the Board to allow them to improve their property and have a better way of life.

Geraldine Custode, 2006 Ocean Avenue, stated any improvement they make to the property will be great for the neighborhood and for Belmar. The house used to be an animal house and he used to call the cops on it. He feels they are nice people and he can't say anything bad about this.

Board Comments

Mr. Fowler stated this family chose Belmar as their future residence and purchased a rental property that was an annoyance to the neighbors to make it into a family home. The proposed plans are very nice and

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the architect was very sensitive to what is allowed and the applicants have been very sensitive to the Board's comments. He added that the rear structure may be increasing in height but when you look at the big picture and the fact a rental is being removed it shouldn't be as much of a concern. Given the concessions the applicants have agreed to he would be in favor of the application.

Ms. Young stated she visited the site and believes the design is quiet nice. She is concerned about the neighbors concerns of the rear structure height.

Mr. Ross stated the proposal would be a benefit to the town, a rental is being removed, and he doesn't have a problem with back houses but does have a problem with two large structures on one property. However, he doesn't think that is happening. They are taking what they had and moving the living space up and adding a garage. He also added that if it was just a garage it could be 18 feet high; therefore the height of the rear structure is not an issue. Mr. Bianchi confirmed that. Mr. Ross stated he would be in favor of the application.

Mr. Greig stated he would be in favor of the application. He added that moving the living space in the rear structure to the second floor makes sense in order to use it. He added that there will be no windows on the neighbors side on the rear structure so there should be no privacy concerns. He is in favor of the application.

Mr. Fitzgerald stated he would not ask for the condition of the rear structure overhang anymore. He stated he understands the neighbors concerns about the height but if the ordinance allows such a height he is not sure it can be denied. The property is an eyesore and will be tremendously better, the use of it will be tremendously better and the town gets more tax ratable. Encouraged them to speak to their neighbors and show them the plans. He is highly in favor of the deed restriction.

Mr. Lisko stated he agrees with most of the Board. He stated he does struggle with the fact it is an expansion of a non-conforming use but when consider removing a rental from the property it is a positive for him and he would be in favor of the application.

Mr. Fowler made a motion to approve the application, which was seconded by Mr. Greig and approved by the following vote:

AYES: Messrs. Fitzgerald, Greig, Lisko, Ross, Fowler, and Ms. Young

NAYS:

ABSTAIN:

9:39 PM – THE BOARD TOOK A RECESS. THE BOARD RECONVENED AT 9:47 PM. ROLL CALL WAS TAKEN.

JOSEPH & DIANE DEJOHN - 112 19TH AVENUE

Mr. Fowler stated he has had a prior business relationship with the applicant and therefore would recuse himself from this application.

Appearing with Mr. DeJohn was his engineer/planner Tim Lurie and modular home designer Robert Giovine from Zarilli Homes.

Mr. DeJohn stated him and his wife have owned the property since 2007. The house on the site was a single family house used as a summer house and was demolished in January 2013 because it was damaged by Hurricane Sandy. The house sat very low on the lot and had about two feet of water in the house for about week after the storm. He lost all appliances and ductwork. The house was demolished because of that and the fact the house was setback on the lot and was only two feet off the property line.

Mr. Lurie stated the property is only 4000 square feet. The proposed front yard setback is in line with the average of the block. He amended the rear deck on plans from 12 feet to 16 feet which is still in compliance. Will comply with impervious coverage at the maximum permitted of 55%. Will also comply with all setbacks. The proposed single family modular home would have a garage underneath and attached to the house. Need a variance for the third story, does not comply with the half story definition. Also need a height variance because of the garage being underneath. The proposed height is 37 feet when 35 feet is the maximum permitted. Mr. Bianchi asked how the height was measured, because if it's measured from the base flood elevation then a variance may not be required. Mr. Lurie stated the height is 36.7 feet from the base flood elevation. Mr. Bianchi stated that would still be a variance. The proposed building coverage would be 31.7% which is a variance because 30% is the maximum permitted. The

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property will be graded to drain towards the front of the property in lieu of installing a drywell which will benefit the neighbors at the rear.

Mr. Lurie stated the proposed house will have five bedrooms and will comply with the three parking space requirement.

Board Questions

Mr. Fitzgerald suggested they look at other elevated homes and consider ways to make the foundation look better since the house is so high such as putting more siding on it.

Mr. Greig asked about decking and exterior materials. He asked if they could comply with the half story regulations. Mr. DeJohn stated he would like to have his bedroom on the first floor and the other four bedrooms on the second floor. Doesn't think he can do it without removing the garage.

Mr. Ross asked what the height would be from the ground. Mr. Lurie stated it would be approximately 38 feet.

Mr. Lisko asked to clarify the parking situation. Mr. DeJohn stated he could fit two in the garage and one in the driveway. Mr. Lisko asked if they would be willing to speak to the Borough Engineer regarding their grading plan and to help determine if the water can be maintained on site with a drywell or not.

Mr. Bianchi asked how the impervious coverage was calculated. Mr. DeJohn stated he did include the deck. Mr. Bianchi stated the protrusion of the deck into the rear setback is only allowed to be 8 feet and if they are proposing 16 feet then that's a variance.

Public Comment:

Fred Schatzman, 1805 Surf Avenue, is in favor of the application and stated it will be better for the neighborhood.

Board Comment:

Mr. Fitzgerald stated he would just like to see the aesthetics of the foundation improved.

Mr. Greig stated his only concern is the front façade looking like a big wall. Mr. Giovine stated they could adjust the roof lines and overhangs to give it a better look. Mr. Greig would like to see a little bit more done to it.

Mr. Ross stated it is great to see houses coming back to that part of the town.

Ms. Young stated it looks like it will be a beautiful home.

Mr. Lisko stated he appreciates them working with us on the storm water issue.

Mr. DeJohn asked if it would matter if he moved the garage to the other side. Mr. Bianchi stated he would just have to have a curb cut line up which means he would have to redo the curb. Mr. DeJohn stated he would do that. Mr. Bianchi suggested that revised plans be submitted to the Board to reflect that.

Ms. Young made a motion to approve the application, which was seconded by Mr. Greig and approved by the following vote:

AYES: Messrs. Fitzgerald, Greig, Lisko, Ross, and Ms. Young

NAYS

ABSTAIN:

Mr. Kennedy stated he prepared a resolution of approval in the event this application were approved because the Board in the past has done this for homes who suffered damage from Hurricane Sandy to allow them to get started 30 days sooner. Mr. Kennedy read into the record the findings of facts and conditions that would be listed in the resolution.

Mr. Greig made a motion to approve the resolution as summarized by Mr. Kennedy, which was seconded by Mr. Fitzgerald and approved by the following vote:

AYES: Messrs. Fitzgerald, Greig, Lisko, Ross, and Ms. Young

NAYS

ABSTAIN:

Mr. Fowler rejoined the Board.

ALEXANDER HOOD – 200 ½ 15TH AVENUE

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Appearing for this application was attorney George McGill, Al and Lindsey Hood members of the Hood Living Trust, and engineer/planner James Henry.

Mr. McGill stated the proposal is to build a driveway on the property to lead to a parking pad in the rear of the parking lot. A fence will be installed on the westerly side of the property to protect the neighbor. Requesting a variance to put the driveway on the property line instead of having the 1 foot buffer. Also seeking relief from the maximum driveway width requirement. Ten feet is the maximum permitted but they are proposing 18 feet.

Mr. Kennedy stated he received a phone call from an objector and he advised him that he would need to obtain power of attorney for someone to appear on his behalf if he could not be present, which he did, his son is present and make speak later, which Mr. McGill was advised of.

Ms. Hood stated her grandfather purchased the property in 1928 and built the existing home and used it as a summer home. When he and her grandmother passed away it was inherited by her mother who owned it until 1983 until she passed away and her father took ownership. The plan is for her and her husband to sell their home in Toms River and move here permanently. They did live there back in 2006 but the parking issues in that area of town were a problem.

Mr. McGill and Ms. Hood stated they will comply with the ordinance regarding permeable pavers in order to reduce the impervious coverage. Mr. Bianchi explained what a permeable paver is.

Mr. Henry stated only 1.5 parking spaces are required. There is currently no parking on the site. Proposing a driveway on the westerly side of the property and a parking area in the rear to allow for two parking spaces. There would be 6.9 feet between the house and the proposed fence. A typical sedan vehicle is approximately 6 feet wide which would allow for a vehicle to maneuver down to the parking area in the rear. Need a variance for the one foot buffer requirement to get the most width out of the driveway. Only increasing the impervious coverage by 0.02%. He stated the benefits of approving this application would be adding two parking spaces on site. The only detriment is losing half a parking space on the street which isn't much of a detriment because they are also removing two vehicles from off the street that would normally be parked there.

Mr. Bianchi asked where the gas meter is located. Mr. McGill stated the gas meter on the neighbor's house will be screened by their new fence. Their gas meter is on the other side of the property.

Board Questions

Mr. Fowler asked if there is any chance the neighbor's gas meter could be hit by a car. Mr. Henry replied no.

Mr. Ross asked if the 7.1 feet at the back of the house is to the wall or the overhang. Mr. Henry stated it is to the wall, the overhang is on the second story and would not be touched by a car.

Mr. Greig asked if there is an issue with the electric meter. Mr. Henry stated he doesn't see it being an issue. Mr. Greig stated the fact it will be so tight may be an issue. Mr. Greig asked if the proposed fence would have any effect on the neighbor. Ms. Hood stated she doesn't think so because it will add a buffer for them. Mr. Greig asked if the neighbor will have enough room on his side. Mr. Henry stated the neighbor will have almost two feet between his house and the fence. Mr. Henry added that the neighbor was concerned about them driving onto his property which would not happen with the fence.

Mr. Lisko asked if the fence is being installed per code. Ms. Hood replied yes. It was clarified that the fence would not extend in front of the house.

Mr. Ross asked if the 18 feet width in the back is needed. Mr. Henry stated yes, it is a turnaround area to make it easier for them to get out given the tight conditions.

Public Comment

Joseph Giordano, 202 15th Avenue, his father owns the property and he is appearing on his behalf and has power of attorney to do so. He stated they are concerned about how close the cars will be to the gas and electric meters. Also concerned about taking away parking on the street. The fence would alleviate their concern of walking onto their property. Concerned about their backyard becoming a parking lot and being an eyesore.

Board Comments:

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Mr. Fowler stated he sees no reason why they shouldn't have a driveway and thinks it's needed because of the parking issues in that area of town. Given that a fence will be put up he would be in favor of the application.

Ms. Young stated she is in favor of the application.

Mr. Ross stated it would be very narrow and suggested warning signs be put up for those driving on it.

Mr. Greig stated he understands the need for off street parking and while it will be challenging for them to use and taking in their sensitivity for the neighbor with the fence, he would be in favor of the application.

Mr. Fitzgerald stated he feels they are putting themselves in a predicament with the size of the driveway but doesn't see any reason to not grant it.

Mr. Lisko agreed that it will be tight, but that's their issue.

Ms. Young made a motion to approve the application, which was seconded by Mr. Fowler and approved by the following vote:

AYES: Messrs. Fitzgerald, Fowler, Greig, Lisko, Ross, and Ms. Young

NAYS

ABSTAIN:

Mr. Greig made a motion to adjourn the meeting, which was seconded by Mr. Fitzgerald and approved unanimously.

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ZONING BOARD OF ADJUSTMENT

A regular meeting of the Board of Adjustment of the Borough of Belmar was held on the above date at approximately 7:30 p.m., in the Municipal Complex.

PRESENT: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Greig, Ross, Cupoli, and Fowler; and Ms. Young

ABSENT:

ALSO PRESENT: Kevin E. Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on December 30, 2013 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Fowler made a motion to waive the reading and approve the minutes of the March 12, 2014 special meeting, which was seconded by Ms. Young and approved by the following vote:

AYES: Messrs. Fitzgerald, Lisko, and Fowler; and Ms. Young

NAYS:

ABSTAIN: Messrs. Brennan, Cupoli and Hutchinson

INELIGIBLE: Mr. Ross and Mr. Greig

Mr. Fowler made a motion to waive the reading and approve the resolution granting approvals to Ted Protonentis, 106 15th Avenue, which was seconded by Mr. Hutchinson and approved by the following vote:

AYES: Messrs. Brennan, Hutchinson, Fitzgerald, Lisko, and Fowler

NAYS:

ABSTAIN: Mr. Cupoli and Ms. Young

INELIGIBLE: Mr. Ross and Mr. Greig

Mr. Fitzgerald made a motion to waive the reading and approve the resolution granting approvals to James O'Hara, 2008 Ocean Avenue, which was seconded by Mr. Brennan and approved by the following vote:

AYES: Messrs. Brennan, Hutchinson, Fitzgerald, Lisko, and Fowler; and Ms. Young

NAYS:

ABSTAIN: Mr. Cupoli

INELIGIBLE: Mr. Ross and Mr. Greig

Mr. Fowler made a motion to waive the reading and approve the resolution granting approvals to Alexander Hood Living Trust, 200 ½ 15th Avenue, which was seconded by Mr. Fitzgerald and approved by the following vote:

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AYES: Messrs. Brennan, Cupoli, Hutchinson, Fitzgerald, Lisko, and Fowler; and Ms. Young
NAYS:
ABSTAIN:
INELIGIBLE: Mr. Ross and Mr. Greig

NANCY MORRISSEY – 1906 A STREET

Mr. Fitzgerald had to recuse himself because he lives within 200 feet of this application. Mr. Ross took his place on the Board.

Appearing for this application was Bob and Nancy Morrissey, property owners, and architect Robert Weinstein. The current home is single family with four bedrooms and two and a half bathrooms. The first floor was damaged by water from Hurricane Sandy. The proposal is to renovate the house and elevate it while also reconstructing the roof, adding balconies and making the attic habitable. They would like to add a dormer at the back of the house to create a master suite and an exercise room in the attic. Mr. Morrissey submitted photos of the current home and a proposed elevation of the renovations. Proposing to install underground cisterns to address storm water. The footprint will not be expanding.

Mr. Weinstein stated they propose to elevate the house 4 feet and do some aesthetic improvements to the front façade such as stone veneer. Mr. Weinstein explained the balconies being added and the other proposed renovations. The variances being requested are: front yard setback (existing condition), one side yard setback and total side yard setback (also existing conditions), impervious coverage (increased by less than 1% due to steps), building coverage, half story size, and the dormer. Mr. Weinstein submitted a surveyor's report showing the average front yard setbacks for the block, which they are using to measure the front yard setback.

Board Questions

Mr. Fowler asked how many bedrooms and bathrooms are being added. Mr. Morrissey stated they will be adding one more bedroom and one more bathroom. Mr. Fowler asked what the present height of the house is. Mr. Weinstein stated it is 28 feet and it is being raised to 35 feet.

Mr. Bianchi stated a parking variance is required because the driveway is in the right of way and therefore there are only two actual parking spaces where three is required.

Mr. Fowler asked where the mechanicals will be located. Mr. Weinstein stated the mechanical room will be elevated two feet above the base flood elevation and is located behind the garage.

Mr. Cupoli asked why there are two electrical meters on the outside of the house. Mr. Morrissey stated he did not know why and added that the house is a single family. Mr. Cupoli asked if the existing pavers in the driveway would remain or be replaced. Mr. Morrissey stated they will

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remain. Mr. Cupoli suggested if they have to remove and replace them that they use pervious pavers to help reduce the impervious coverage.

Mr. Ross just asked to clarify the variances being requested.

Mr. Hutchinson was concerned about the impervious coverage and asked if anything could be done with the driveway and paver patio in the rear. He suggested using the pervious pavers to get a reduction in the impervious coverage closer to the 55% or in compliance with it. Mr. Morrissey stated if he has to replace the pavers he will get the pervious pavers.

Mr. Fowler asked if there is an outdoor shower. Mr. Weinstein stated there is one and it will stay where it is. Mr. Bianchi stated it has to be above the base flood elevation.

Public

Janet Pizzelanti, 1909 A Street, stated the Morrisseys are great neighbors and do a great job maintaining their property and she supports their application.

John Fisher, 119 19th Avenue, stated it is nice to see improvements like this being made. It will make the town look better and help them get through any future storms.

Board Comments

Mr. Fowler stated he is very pleased with the application and in favor of the application.

Mr. Cupoli stated he is also pleased with the application. The house will fit in with the neighborhood.

Ms. Young stated it will look great and is glad they want to move to Belmar permanently.

Mr. Ross stated he has no issues with the variances, although he would have liked it to comply with the half story definition, but given the footprint isn't expanding he is in favor of the application.

Mr. Brennan stated he is glad they are being proactive about handling storm water and feels the variances being requested make sense and therefore would be in favor of the application.

Mr. Hutchinson stated he too is in favor of the application and wished them luck.

Mr. Lisko stated the design is well done and he liked their willingness to work with the Board on the impervious coverage issue.

Ms. Young made a motion to approve the application, which was seconded by Mr. Fowler and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Cupoli, Ross, Lisko, and Ms. Young

NAYS:

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Mr. Kennedy stated he prepared a resolution of approval in the event this application was approved, which the Board has authorized him to do for those properties affected by Hurricane Sandy. He read the findings of facts into the record.

Mr. Brennan made a motion to adopt the resolution, which was seconded by Mr. Cupoli and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Cupoli, Ross, Lisko, and Ms. Young

NAYS:

Mr. Fitzgerald rejoined the Board and Mr. Ross stepped down.

At approximately 8:26 pm the Board took a 10 minute recess.

LINDA CHAMBERLIN – 303 FIFTH AVENUE

Appearing for this application was Mrs. Chamberlin and her architect Mark Fessler. Mrs. Chamberlin stated the house is single family and is currently unoccupied. Mr. Fessler submitted illustrated plans of what was previously submitted.

Mr. Fessler stated the house is on an undersized lot. The proposal is to put an addition on the north side of the property with a porch at the rear of the addition. Need variances for existing south side setback and rear yard setback. The house is currently four bedrooms and will remain four bedrooms. The proposed addition allows for reconfiguration of the interior rooms to allow for more livable area. There are two bathrooms now and a third one will be added. Due to the size of the lot the existing house is already over the building coverage and is being slightly increased. There is no variance required for impervious coverage.

Board Questions

Mr. Hutchinson asked if the mechanicals will be moved out of the basement. Mr. Fessler replied yes. Mr. Hutchinson asked if any parking spaces will be removed. Mr. Fessler stated no and added they have one parking space and it will remain. Mr. Lisko added that a parking variance will be required even though it's an existing condition.

Mr. Brennan asked what could be done to mitigate storm water. Mr. Fessler stated they could put a drywell at the rear of the property underneath the porch. Mr. Brennan added that it doesn't necessarily have to be a drywell they could use a rain garden or rain barrel.

Mr. Fitzgerald asked how the impervious coverage isn't increasing. Mr. Fessler clarified that the impervious coverage is increasing 5% however it is still under the maximum permitted.

Mr. Fowler asked about exterior materials. Mrs. Chamberlin stated the siding will match the existing house and the porch will be maintenance free.

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Public: none

Board Comments:

Mr. Hutchinson stated he is in favor of the application.

Mr. Brennan suggested if they are replacing the pavers they look into pervious pavers.

Mr. Fitzgerald stated he feels for those with odd lot sizes and has no problem with the application.

Ms. Young and Mr. Cupoli stated they are in favor of the application.

Mr. Fowler welcomed Mrs. Chamberlin to Belmar and stated he is in favor of the application.

Mr. Lisko stated he too is in favor of the application.

Mr. Bianchi clarified that a parking variance is not required because the number of bedrooms are not being changed.

Mr. Fowler made a motion to approve the application, which was seconded by Ms. Young and approved by the following vote:

AYES: Messrs. Hutchinson, Fitzgerald, Brennan, Cupoli, Fowler, Lisko, and Ms. Young

NAYS:

VINCE DISPOTO -110 FIFTH AVENUE

Ms. Young recused herself from this application because she was not present at the February 27, 2014 and was unable to listen to the recording. Mr. Greig took her place.

Appearing with Mr. Dispoto was his attorney Lee Levitt and planner Peter Vandenkooy. This application is a continuance of several previous meetings. Mr. Levitt submitted architectural drawings with slight modifications marked in red bubbles. Also appearing was attorney William Shippers who is representing neighbors who have objections to the application. Mr. Shippers objected to the submission of revised plans due to the increased footprint of the proposed structure. Mr. Levitt stated the elevation certificate which was prepared back in October 2013 had the square footage that is being proposed. Mr. Levitt believes the square footage may have been incorrect on the architect's drawing. The elevation certificate has certified that the existing structure is 1137 square feet.

Mr. Vandenkooy stated the proposed accessory structure is now 21.5 feet above the base flood elevation and 23 feet above grade where 20.5 feet is the maximum permitted given it's in a flood zone. The proposed square footage of the structure is 1430 square feet. The surrounding uses are single family homes and several garden apartment structures as well as other two family properties within a two block radius. He feels the proposed structure is in character with the neighborhood. He also stated this application promotes the health and safety of the public as it is

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an appropriate use in an appropriate location, the proposed project would be secure from natural disasters by complying with FEMA regulations, the project is in character with the neighborhood and density, and the new proposed structure would be a major aesthetic improvement. He stated he reviewed the Borough's master plan and referenced a 2010 re-exam report that stated the Borough wants to see carriage and rear houses improved in certain zones. He feels the proposal won't be a detriment to the existing zoning regulations. The proposed structure complies with a majority of the bulk standards and will be built to code. The proposed structure will not be a detriment to the neighborhood given his previous statements.

Mr. Shipers asked Mr. Vandenkooy if he prepared a report on his findings. Mr. Vandenkooy stated he prepared a testimony chart for himself but not for the Board. Mr. Shipers asked if his report listed any negatives or only positives. Mr. Vandenkooy stated the structure is slightly increasing in size but believes there are more positives than negatives. Mr. Shipers felt a smaller structure would be more suitable on the property. Mr. Vandenkooy disagreed because they are in compliance with the floor area ratio requirements. Mr. Vandenkooy added that they are building to the FEMA regulations and the minimum requirements to meet building codes. Mr. Shipers asked what hardship there if the structure is not rebuilt. Mr. Vandenkooy stated the structure would not be in compliance with FEMA regulations and the interior staircase would continue to be a safety issue. Mr. Shipers stated prudent planning doesn't approve expansions of a non-conforming use based on financial hardship. Mr. Shipers questioned how Mr. Vandenkooy could use other rear structures as comparison when he doesn't know the exact size of those structures, number of bedrooms, and number of bathrooms. Mr. Vandenkooy stated he surveyed four blocks and found three accessory structures on just their block alone.

Mr. Kennedy pointed out that hardship is usually defined by something with the land or topography. Mr. Vandenkooy stated the property is in a flood zone which is a major land use issue.

Mr. Levitt added that the accessory use is a pre-existing lawful use and there is an existing foundation. The variances being requested are for the expansion of a non-conforming use, height, and existing impervious coverage conditions that are not changing.

Board Questions:

Mr. Fowler asked what the maximum height permitted is. Mr. Bianchi stated it is 18 feet above the base flood elevation. Mr. Levitt stated they are proposing 21.5 feet above the base flood elevation.

Mr. Shipers stated accessory structures are only permitted to be one story structures and a two structure is being proposed which is another variance.

Mr. Bianchi stated the Borough's ordinances allow a conditional use of 650 square feet which this proposal is exceeding, and may be another variance. Mr. Levitt added that his is a rebuild and the previous foundation remains. Mr. Bianchi clarified what the ordinance says regarding the rebuilding of accessory structures. Mr. Levitt felt there is case law and language in the municipal

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land use law that makes him feel that it is a pre-existing non-conforming use that is being rebuilt and disagrees with Mr. Bianchi.

Mr. Fowler asked what their definition of a hardship is. Mr. Dispoto stated losing the structure is a hardship and having to rebuild it to code is also a hardship. Mr. Dispoto stated he feels his new proposal is far better than his previous proposal.

Mr. Greig asked if a portion of the house could be maintained so it's not considered a rebuild. Mr. Bianchi stated no because it is substantially damaged. Mr. Greig asked how much larger this structure is than the previous. Mr. Levitt stated it is approximately 300 square feet to accommodate the staircase. Mr. Greig asked if the number of bedrooms and bathrooms would stay the same. Mr. Dispoto stated the number of bedrooms would stay the same but the number of bathrooms would decrease in comparison to the previous house. He added that this design is more livable than the current structure. Mr. Greig asked how much higher the proposed house is in comparison to the existing house. Mr. Dispoto stated it is a difference of 30 inches. Mr. Levitt stated this is due to the ductwork. Mr. Dispoto submitted a photo of the existing structure to show how the new proposal would be more aesthetically pleasing. Mr. Greig asked what materials would be used on the exterior. Mr. Dispoto stated it would have an asphalt shingle roof, vinyl siding, and low maintenance products.

Mr. Cupoli asked if the footprint is staying the same. Mr. Levitt stated they have an existing foundation and they are coming out four feet to accommodate a staircase. Mr. Dispoto stated he had previously proposed to come out six feet but reduced it to four. Mr. Cupoli asked about drainage. Mr. Dispoto stated he had agreed to install a drywell.

Mr. Fitzgerald asked for clarification on the borough's ordinance regarding rebuilding after Hurricane Sandy. Mr. Bianchi stated you are allowed to elevate an existing structure and not change the setbacks but once you alter it you lose that opportunity. Mr. Fitzgerald asked if you are allowed to put back what you had. Mr. Bianchi and Ms. Claudio stated the ordinance does allow you to rebuild if it's exactly the same. Mr. Fitzgerald asked to clarify that additional two and a half feet is being requested so there is an attic for ductwork. Mr. Levitt agreed and added it's also for aesthetic reasons so there is not a flat roof. Mr. Fitzgerald asked if they looked at other roof lines to allow for the ductwork but also to not need the additional two and a half feet. Mr. Dispoto stated his architect advised him this is the minimum height to accommodate what they need and to meet code.

Mr. Hutchinson asked if the previous structure was two stories. Mr. Dispoto replied yes.

Mr. Ross asked if the structure is actually moving forward to comply with the 3 foot rear setback requirement. Mr. Dispoto replied yes.

Mr. Levitt asked for a two minute recess at 10:21 pm. Roll call was taken all Board members were still present.

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Mr. Shipers submitted photo boards showing enlarged floor plans of the proposal that was submitted to the Board 10 days before the meeting, not the revised ones submitted at the meeting. Mr. Shipers asked if the ductwork being placed in the attic area is to allow them to have larger rooms. Mr. Dispoto stated his HVAC contractor advised him that the best location is in the attic. Mr. Shipers asked where the hot water heater would be located. Mr. Dispoto stated it would be on the second floor. Mr. Shipers asked what is in the house now. Mr. Dispoto stated it is two bedrooms and two bathrooms. Mr. Shipers questioned the proposed closet on the second floor being used as a third bedroom given the size and the fact it has windows.

Mr. Lisko stated in the past the Board has asked for deed restrictions to eliminate some non-conforming uses as rentals. Mr. Dispoto stated he intends on renting the structure. Mr. Levitt was unsure what Mr. Lisko was referring to. Mr. Lisko withdrew his question.

Public Comment:

Paul Carew, 110 Fourth Avenue, stated he has been a resident of Belmar since 1980 and has seen a lot of improvements in town. He is in favor with following the Borough's plan and heading towards more single-family uses. He also believes they should be able to rebuild what they had and nothing more.

Dennis Steadman, 111 Fourth Avenue, attempted to provide comment. Mr. Levitt objected to him making statements since he is represented by Mr. Shipers and felt any statements should go through him so Mr. Levitt can cross exam.

Mr. Kennedy suggested this discussion be only for public questions and then determine if there is anymore testimony and then have a public comment session. Mr. Levitt stated he has no more testimony and would be fine with Mr. Steadman proceeding. Mr. Shipers stated he would like to call Mr. Steadman as a witness.

Mr. Shipers asked Mr. Steadman if he reviewed the new plans. Mr. Steadman stated he did but is a little bit confused about the height and how it will sit on the property. Mr. Steadman's objections are to the size and density of the structure. He understands it can be rebuilt and doesn't question that however he doesn't understand why it needs to be expanded significantly. He wonders why it can't be rebuilt to be the same size as the existing structure.

Mr. Levitt asked Mr. Steadman if he is aware that two 35.5 feet high structures will be built to the south rear of his property. Mr. Steadman replies yes. Mr. Shipers stated they are principle structures and Mr. Steadman added that those structures won't be three feet from is property line.

Mr. Fitzgerald and Mr. Steadman discussed what exactly Mr. Steadman is objecting to. Mr. Steadman stated that over the past few months there has been a complete disregard for what the codes are and it suggests to him that they may modify the structure post construction and create a third bedroom.

Mr. Greig suggested making the back of the house more appealing since it faces Mr. Steadman's property. Mr. Dispoto stated Mr. Steadman didn't want him to do much to the back of the house

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which is why there aren't a lot of windows. Mr. Steadman stated he would want minimum windows and for them to be frosted, he has never commented on the design of it. After more discussion it was determined that more architectural features would be added to the rear of the structure to make it more aesthetically pleasing.

It was also determined that even though the structure is being moved forward to create a 3 feet setback, five feet is actually required which is an additional variance.

Public Comment:

Connie Dallaportas, 1002 Main Street, stated just because there were previous problems with tenants it doesn't mean that there will be problems in the future and these owners should not be penalized for it.

Karen Carew, 110 Fourth Avenue, stated she does not believe in expanding non-conforming uses but rebuilding is okay. She added that if safety is a concern then they should find an architect that can design a house that is safe and is not larger.

Mr. Shipers feels the Board has not clearly heard all of the variances required and is not sure if they can vote properly. Mr. Levitt stated a variance is required for side yard setback. Mr. Levitt was giving confusing testimony about this side yard setback.

Mr. Kennedy suggested helping both sides in the event there is litigation by offering some options. Option one would be to carry the application to the next meeting. Option two would be to carry the application to the next meeting to allow the architect to revise the plans to show what all of the variances are and to just give a brief explanation of those and to allow both attorneys to summarize and then vote.

Mr. Cupoli added that if we are going to carry the application that the plans only be amended to clarify the variances and that there be no other changes to the plan.

Mr. Kennedy felt that it would be in the Board's best interest to have a clear document as to what all of the variances are before voting.

Mr. Lisko felt out of an abundance of caution the application should be carried to allow for the applicant to provide a clear list of the variances being requested.

Mr. Kennedy suggested Mr. Levitt and Mr. Shipers discuss what architectural elements will be added to the rear of the building so as to address Mr. Steadman's concerns.

Mr. Levitt clarified that at the next meeting they will be submitting a zone chart, rear elevations, there will be attorney summations, and a board vote. No more public comment.

Mr. Shipers suggested the chart be submitted to the Zoning Officer with an ample amount of time for him to review it.

Mr. Shipers stated he could not attend the April 24th meeting and suggested it be carried to the May 22nd meeting. Mr. Kennedy advised the Board it is their decision which meeting to choose.

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Mr. Lisko felt given the full agenda for April 24th already and the fact Mr. Shipers cannot attend that it be carried to the May meeting.

Mr. Brennan made a motion to carry the application to the May 22, 2014 meeting, which was seconded by Mr. Fitzgerald and approved unanimously.

Mr. Fitzgerald made a motion to adjourn the meeting, which was seconded by Mr. Hutchinson and approved unanimously.

ZONING BOARD OF ADJUSTMENT
APRIL 24, 2014

A regular meeting of the Board of Adjustment of the Borough of Belmar was held on the above date at approximately 7:30 p.m., in the Municipal Complex.

PRESENT: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler and Greig and Ms. Young

ABSENT: Mr. Ross

ALSO PRESENT: Kevin E. Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on December 30, 2013 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Brennan made a motion to waive the reading and approve the minutes of the March 27, 2014 meeting, which was seconded by Mr. Fowler and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler and Greig and Ms. Young

NAYS:

Mr. Fowler made a motion to waive the reading and approve the resolution granting approvals to Linda Chamberlin, 303 Fifth Avenue, which was seconded by Mr. Cupoli and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler and Greig and Ms. Young

NAYS:

Ms. Claudio explained the 2007 resolution granting approvals to Elatar LLC for a subdivision at 13th Avenue and Ocean Avenue had a condition that they use good faith efforts to locate the electric service underground to the four new homes. The developer originally was not going to do this, which caused a neighbor to object. They were advised that they needed to appear before the Board to request approval to keep the service overhead or put it underground. The developer decided to meet with JCP&L to determine if the services could be placed underground. JCP&L provided them with an agreement to install a pole in front of 99 13th Avenue to feed all four houses underground. The neighbor had requested that they connect to the pole in front of her house at 98 13th Avenue rather than adding another pole to that block.

Mr. Bianchi stated he doesn't think it is an issue and feels they are in compliance with the resolution and that the service will be underground from the pole. Mr. Fowler agreed.

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Mr. Brennan and Mr. Cupoli added that it would be the only pole on that side of the street.

Mr. Fitzgerald felt it makes sense and may be the best way to service those four homes; seems to be the logical way to do it.

There were no objections to this except for Mr. Brennan felt there were no good faith efforts made by the applicant.

Mr. Fowler made a motion to accept the developer's actions as good faith efforts to install underground service to the four new homes, which was seconded by Ms. Young and approved by the following vote:

AYES: Messrs. Hutchinson, Fitzgerald, Lisko, Cupoli, Fowler and Greig and Ms. Young

NAYS: Mr. Brennan

BRIAN & ELIZABETH LOVE – 508 10TH AVENUE

Sean Hurley appeared on behalf of the applicants with power of attorney as well as Michelle Strubel from Pool & Spa Doctor who is the contractor.

Mr. Hurley stated Mr. and Mrs. Love have owned the property for nine years and it currently has two structures on it. They occupy the front house and the rear unit is rented. He stated Mr. and Mrs. Love have a seven year old daughter and a new baby on the way and would like to install an in-ground pool. The only variance being requested is for alteration of a non-conforming use because there are two structures on the property.

Board Questions

Mr. Fowler asked if the rear structure is a year round rental. Mr. Hurley replied yes. Mr. Fowler asked if the renter would have use of the pool. Mr. Hurley stated the pool is for the use of the primary residents.

Mr. Cupoli asked if there is another location the pool equipment could be moved to so it does not affect the neighbors. Ms. Strubel stated they could move it closer to the house or put a fence around it to give it a barrier. She also suggested it could be moved to the other side of the deck. She submitted photos of the backyard to the Board for clarification. The proposal is to move the equipment back next to the deck stairs so it sits within the existing fence and is further away from the neighbors and the street.

Mr. Fitzgerald asked for clarification as to the location of the gate. He asked if there is a requirement of how far it has to be from the pool. Mr. Bianchi replied no.

Mr. Brennan asked if the equipment would have timers so they shut off at night. Ms. Strubel stated the equipment will not be running at night and they do have timers. Mr. Brennan recommended they consider installing a drywell if they think it would be worthwhile to do so while installing the pool.

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Mr. Bianchi asked if the driveway is being expanded. Mr. Hurley replied no.

PUBLIC:

Connie Dallaportas, 1002 Main Street, stated she feels swimming pools are safety issues with people drinking, partying and kids falling in and drowning or getting hurt.

Board Comments:

Mr. Fowler stated he would be inclined to vote in favor of the application. The rest of the board agreed.

Ms. Young made a motion to approve the application, which was seconded by Mr. Fowler and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler and Greig and Ms. Young

NAYS:

KEN & PILAR BOYLE – 511 15TH AVENUE

Appearing for this application were Ken and Pilar Boyle. Mr. Boyle stated they purchased the property in December 2012. There is a single family home on the property that they use as a summer residence. The proposal is to replace the existing stone steps at the front door with an 8x9 front deck. Ms. Boyle stated her architect was confused about whether or not the deck was included in impervious lot coverage which was clarified and she had revised plans to submit to the Board with the correct impervious coverage calculation along with a letter from the architect explaining the change. A variance is required for the front yard setback and impervious lot coverage. The proposed front yard setback is 6.82 to the house and the deck is 7.09 to the closest point; the house sits on an angle. The existing impervious coverage is 78.75% where 55% is the maximum permitted. With the deck it would increase to 79.88%. Ms. Boyle explained the photos she submitted in her application packet, which showed similar type decks in the neighborhood.

Board Questions:

Mr. Brennan asked if there are any issues with water runoff and if anything could be done to mitigate water runoff such as drywell or rain garden. Ms. Boyle stated they haven't had any water issues and there will be gravel underneath the deck so she feels there will be no issues. Mr. Boyle added there are drains at the rear of the property already that are connected to the gutters and roof leaders.

Mr. Fitzgerald stated he would be one to push for a drywell but feels there will be no issue given the scope of the work.

Ms. Young stated she had no questions and feels it will be a great safety feature.

Mr. Fowler asked if licensed contractors will be used. Mrs. Boyle replied yes.

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Public: none

Board comments:

Mr. Hutchinson stated he is inclined to approve the application.

Mr. Brennan stated it will look great.

Mr. Fitzgerald stated it is very nice.

Ms. Young stated she would approve the application.

Mr. Cupoli stated it will be a nice improvement.

Mr. Fowler stated he would be inclined to vote in favor of the application. Mr. Lisko agreed and added it will be a nice addition to the home and neighborhood.

Mr. Cupoli made a motion to approve the application, which was seconded by Mr. Brennan and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli, Fowler and Greig and
 Ms. Young

NAYS:

Mr. Fowler made a motion to adjourn the meeting, which was seconded by Mr. Fitzgerald and approved unanimously.

**ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
MAY 13, 2014**

Present: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli and Ross; and Ms. Young

Absent: Messrs. Greig and Fowler

Also Present: Board Attorney Kevin Kennedy, Esq., Board Secretary April Claudio, and Zoning Officer Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on May 1, 2014 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Kennedy stated one of the applicants from the last meeting requested their resolution be adopted this evening in the event it was ready rather than wait for the regular meeting scheduled for next week. The resolution was for the approvals granted to Brian Love, 508 10th Avenue, for a swimming pool. The applicant would like to get started with the installation as quickly as possible. Mr. Kennedy read the findings of the resolution into the record.

Mr. Cupoli made a motion to approve the resolution granting approvals to Brian Love, 508 10th Avenue, which was seconded by Mr. Brennan and approved by the following vote:

AYES: Messrs. Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli; and Ms. Young

NAYS:

ABSTAIN: Mr. Ross

FUSAL LLC – 402-404 OCEAN AVENUE

Appearing for this application was the business owner Nick Fuccilli, attorney Williams Shippers and architect Mary Hearn. Mr. Fuccilli and his partner are the lease holders of the units at 402-404 Ocean Avenue, the property is owned by Howard Goldberg. Mr. Shippers gave a personal history on Mr. Fuccilli on how he came to Belmar and his plans for staying. The application is to add an upscale trattoria next to his current business, La Dolce Vita at 400 Ocean Avenue. The existing building has commercial on the first floor and apartments on the second floor and is over the permitted floor area ratio because it pre-exists before the floor area ratio requirement was created by the town. There will be no changes to the floor area ratio. Even though it is not changing it is still considered a variance. Also requesting a variance for front yard setback due to the proposed wall around the outdoor dining area.

Mr. Fuccilli stated the building at 402-404 Ocean Avenue has four storefronts, he currently operates a pizzeria out of the southerly two stores. The other two had a breakfast/lunch grill with ice cream named DeLuca's and a beach supplies boutique. His proposal is to take over the other two storefronts between his pizzeria and La Dolce Vita. Also to put up a decorative retaining wall to enclose the proposed outdoor dining area which would line up closely with his existing outdoor dining at La Dolce Vita.

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Mr. Shipers stated the former tenants of the two storefronts operated out to the property line with outdoor tables and seating and merchandise displays.

Ms. Hearn submitted a photo board of the existing site, surrounding uses and the proposal. She explained the proposal which includes expanding the current pizzeria into the two northern storefronts by doing interior renovations only and putting up the wall around the outdoor dining area.

Mr. Shipers stated because the one storefront had a retail business and would be changing to restaurant use, they are requesting the Board grant a change of use for this application.

Ms. Hearn explained the existing setback conditions and how the only change will be to the front yard setback. She added that there is no parking for the site now and there will continue to be no parking even though the ordinance requires 87 parking spaces. She feels the increased parking requirement is minimal and will have no adverse effect on Ocean Avenue and stated she sees no detriments to approving this application.

Mr. Shipers stated he reviewed the letter from the Borough Engineer and he proceeded to address some of the comments in the letter. Ms. Hearn stated the proposed wall is within the front yard setback so it somewhat lines up with the wall at La Dolce Vita. Mr. Shipers stated they could change that if the Board wished. Ms. Hearn stated they are aware they must comply with the outdoor dining ordinance and will comply with it. Mr. Shipers stated he doesn't see the need for an access easement since Mr. Fuccilli has leases with the two property owners and will have access to both properties. Mr. Fuccilli stated he would like to enclose the existing dumpster pad area at the rear with a nice fence if allowed.

Board Questions

Mr. Ross asked if the 90 foot area at the rear of building could be used for parking. Ms. Hearn stated that area is made up of gravel, compact dirt and grass and is land locked; there is no access or a driveway so it cannot be used.

Mr. Cupoli asked if there are any handicap accessible doorways. Ms. Hearn stated the entire business is handicap accessible.

Ms. Young asked if there are tables on the westerly side of the wall because you cannot tell from the plans. Ms. Hearn replied yes. Ms. Young asked why the wall would not be lined up with La Dolce Vita. Ms. Hearn stated it would have to move 6 inches but would be within the Borough's right of way.

Mr. Fitzgerald asked if the applicant wants to put a wall around the dumpster enclosure then why not address it tonight rather than them coming back. Mr. Lisko stated the applicant has stated they did not notice for an additional variance that may be required for it and offered to do a privacy fence instead. Mr. Shipers stated Mr. Fuccilli would like to erect a three sided masonry wall around the dumpster area if the Board would grant a variance for it if one was required because of the concrete pad area being right on the property line. Ms. Hearn stated she would

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recommend the wall be six feet high and the ordinance requires a 3 feet setback. Mr. Shippers suggested that even though the concrete pad is only 2 feet from the side property line at the rear of the property they will build the wall 3 feet back so no variance is required.

Mr. Fitzgerald asked if the Board could approve the wall moving six inches into the right of way. Mr. Kennedy stated the Borough would have to approve anyone building in the right of way but the Board could put in the resolution that they would approve the six inches as long as the applicant receives approval from the Borough or other appropriate authorities to do so.

Mr. Brennan asked if there are any issues with storm water. Mr. Fuccilli replied no. Mr. Brennan asked what happens to the tables at night. Mr. Fuccilli stated depending on the weather they are either left out or stacked together.

Mr. Hutchinson asked how the residents of the apartment access their units because it appears the door is in the front of the building. Mr. Fuccilli stated it is and the arch on the plan is lined up with the walkway to their door.

Mr. Lisko asked how the dumpsters are emptied if the property is land locked. Mr. Fuccilli stated since he leases both properties he would move the dumpsters onto the La Dolce Vita property. Mr. Shippers stated there is no written easement or access agreement but doesn't see it being an issue.

Public Comments:

Tom Volker, Fourth Avenue, stated he supports the application and asked the board to approve it.

Katherine Carlson, 407 Ocean Avenue Apt. 13, stated she has concerns about the traffic on the sidewalk if people are waiting for seating and parking.

Gene Creamer, Fourth Avenue, stated Ocean Avenue is a county road and the Borough may not have exclusive rights to grant any building in the right of away. He asked if the enclosed dumpster area to be built has to be included in the floor area ratio. Ms. Hearn stated it is not required to be included in the calculation. Mr. Bianchi agreed.

Board Comments:

Mr. Ross stated the proposal is very aesthetically pleasing and will be an improvement to the area.

Mr. Cupoli stated Mr. Fuccilli has taken on a great venture and it is a great idea.

Ms. Young stated she would like to hear how the traffic on the sidewalk would be handled. Mr. Fuccilli stated he believes the proposal will actually help alleviate the amount of people standing outside waiting. The interior bar area gives them another area to wait rather than lining up on the sidewalk. Ms. Young stated she would be in favor of the application.

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Mr. Fitzgerald stated it is a tremendous effort on his part to take over the transient businesses next to him and thinks the continuity of the block will be a benefit.

Mr. Hutchinson stated it looks good and is in favor of the application.

Mr. Lisko stated he would be in favor of the application and thinks it will look great.

Ms. Young made a motion to approve the application, which was seconded by Mr. Hutchinson and approved by the following vote:

AYES: Messrs. Ross, Hutchinson, Brennan, Fitzgerald, Lisko, Cupoli; and Ms. Young

NAYS:

ABSTAIN:

Mr. Brennan made a motion to adjourn the meeting, which was seconded by Ms. Young and approved unanimously. ~~Mr. Fitzgerald stated he feels it's~~