

**MEETING MINUTES
BARNEGAT LIGHT PLANNING BOARD
FEBRUARY 19, 2020**

Acting Chairman Barry Mescolotto called the meeting to order and said that adequate notice of this meeting has been published and posted in accordance with requirements set forth in the New Jersey Open Public Meetings Act.

Pledge of Allegiance

Roll Call: Mikuletzky, Larson, Sulock, Mescolotto, Washburn
Absent: Gutowski, Patterson, Manookian, Mears
Due to absences, Mescolotto sat on the board
Also present: Joseph Coronato, Sr, Esq. & Elaine Tollison

Approve Minutes January 15, 2020

A motion made by Larson to approve the minutes and seconded by Washburn

Motion: Larson

Second: Washburn

Roll Call

Ayes: Mikuletzky, Larson, Sulock, Mescolotto, Washburn

Nays: None

Abstain: None

Absent: Gutowski, Patterson, Manookian, Mears

Memorialize Resolution 2020-01, Lighthouse Marina

A motion made by Washburn to memorialize the resolution and seconded by Larson

Motion: Washburn

Second: Larson

Roll Call

Ayes: Mikuletzky, Larson, Sulock, Mescolotto, Washburn

Nays: None

Abstain: None

Absent: Gutowski, Patterson, Manookian, Mears

**RESOLUTION# 2020-1
RESOLUTION OF APPROVAL
APPLICATION OF
LIGHTHOUSE MARINA,
A GENERAL CORP.
APPLICATION #PB-2020-01**

IN THE MATTER OF : PLANNING BOARD OF THE BOROUGH
LIGHTHOUSE MARINA : OF BARNEGAT LIGHT
: NUMBER 2020-2

: BLOCK 10.1; LOT 1.14
: 19 W. 6TH STREET

WHEREAS, an application has been made to the Borough of Barnegat Light Planning Board (the "Board") by Lighthouse Marina (the "applicant"), for a Major Site Plan approval due to Ordinance 157-10.A. Additionally, a variance is needed to meet bulk requirements, this application is considered to be a Major Site Plan. The property known as 19 W. 6th Street in the Borough of Barnegat Light, NJ, Block 10.1 Lot 1.14 as depicted on the Tax Maps of the Borough of Barnegat Light, Ocean County, New Jersey, and said premises being located in the M-C Marine Commercial Zone; and

WHEREAS, the Applicant has satisfied the noticing requirements of the New Jersey Municipal Land Use Law and provided proof of same to the Barnegat Light Planning Board; and

WHEREAS, the Applicant was represented by James Raban, Esquire; and

WHEREAS, the Barnegat Light Planning Board reviewed the application, documents, plans and exhibits as submitted, and listened to the applicant and received information from its professional staff; and

WHEREAS, the Board heard the testimony and the evidence presented by the applicant and received no comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board of the Barnegat Light, County of Ocean, and State of New Jersey, on the 19th day of January, made the following findings:

1. The Board found the application complete.
2. According to the application, the Applicant is requesting a Minor Site plan approval; however it has been determined to be a Major Site Plan approval. The plans reflect that the site has three existing buildings as part of the marina use and a covered storage area along the bay with an adjacent parking lot area. The applicant proposes to demolish the existing ships store and construct a new ships store at approximately the same location. A temporary office trailer of 10ft x 40ft will be utilized during construction; and the following variances and waivers:

A. The following are new variances being requested:

1. Proposed Front Yard Setback to the new Ships store is 5.2 ft where 25 ft is required
2. Existing rear setback to the storage building (no renovation proposed) is 7.1ft where 10ft is required. This is an existing nonconforming condition.
3. There is a refrigerator box that will be relocated to the north side of the existing ½ story frame storage building; eliminating a variance.
4. A 10ft x 25ft loading zone is required for each marina use which appears to include the ships store and marina; as the operation is not changing and no loading areas are depicted, a variance is required.

B. The following are the waivers being requested:

1. The Applicant has not requested any design waivers and none have been identified.

3. In support of the application, the Applicant submitted the following documents:

- A. Plan of survey, One (1) sheet prepared by Nelke Constantine & Associates, Inc., signed by Jay F. Person, PLS and dated 4.23.19;
- B. Minor Site Plan, One (1) sheet, prepared by Nelke Constantine & Associates, Inc., signed by Jeff Daum, PE and dated 9/13/19;
- C. Architectural Plans, two (2) sheets, prepared and signed by Craig W. Brearley, AIA, and dated 11/26/19

4. During the public hearing held on January 15, 2020; the Planning Board discussed the following review letters prepared by the Board's professionals, the contents of which are hereby adopted and incorporated in full:

- A. Review letter dated January 9, 2020, by the Planning Board Engineer, Frank Little, P.E., P.P., C.M.E.

5. The Planning Board has received no review letters/memos from the Barnegat Light Officials.

6. During the public hearing, the following exhibits were marked into evidence:
 - A. The Applicant had its application marked as A1.
 - B. The Applicant had its site plan by Jeff Daum PE marked as A2.
 - C. The applicant had its floor plan prepared by Craig Brearly, AIA dated 11-26-19 consisting of 2 pages marked as A-3.
 - D. The Applicant had the Board Engineer's report prepared by Frank Little dated 1-9-2020 consisting of 3 pages marked as B-1.
 - E. The Applicant marked a picture A-4 depicting the south side of the existing building to be replaced dated 1-15-2020.
 - F. The Applicant marked A-5 a picture of the existing building to be replaced and the alleyway width of loading and unloading dated 1-15-2020.
 - G. Applicant marked A-6 a picture of the commercial dock from a different angle dated 1-15-2020.

MEETING OF JANUARY 15, 2020:

7. Based upon the comments of the Applicant's Attorney, James Raban, Esquire, the Board heard the following:
 - A. The Applicant requested a Minor Site Plan approval but agreed to amend the application to a Major Site Plan.
8. Based upon the sworn testimony of Jeff Daum, P.E., the Board made the following findings of fact:
 - A. The Applicant is improving the existing variance condition where the front yard setback from the existing store is 2 feet and with the new store will have 5.2 feet front setback.
 - B. The existing storage building in the rear set back shall remain 7.1 feet and the board grants the existing condition if the applicant gets clear title to the same.

- C. The refrigerator box will be relocated to the north side of the existing ½ story building and said box will not encroach into the rear setback.
9. Based upon the sworn and qualified testimony of the Applicant's witness, T. Brindley, the Board made the following findings of fact:
- A. The Board finds that the original buildings were constructed in the 1970's and the family has operated same providing fishing equipment , marine supplies, and commercial boat supplies for fisherman in the area.
 - B. Mr. Brindley is a owner, operator, and fisherman of the property.

CONCLUSIONS OF LAW

WHEREAS, the Board determined that the Applicant's Major Site Plan pursuant to *N.J.S.A. 40:55D-46* and *N.J.S.A. 40:55D-50* were found to be sufficient as to style and design, and the Board approved the Applicant's request; and

WHEREAS, the need for the front yard setback variance is due to conditions of the lot which constituted a hardship in accordance with *N.J.S.A. 40:55D-70 (c)(1)*; and

WHEREAS, the need for the rear setback variance is due to conditions of the lot which constituted a hardship in accordance with *N.J.S.A. 40:55D-70 (c)(1)*; and

WHEREAS, the need for the no loading area variance is due to conditions of the lot which constituted a hardship in accordance with *N.J.S.A. 40:55D-70 (c)(1)*; and

WHEREAS, there will be no substantial negative impact on the surrounding property owners; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Barnegat Light.

WHEREAS, the Board has conditioned the approval herein upon the Applicant amending the minor site plan to a Major Site Plan and paying the difference in/additional fees.

NOW, THEREFORE, BE IT RESOLVED, by the Barnegat Light Planning Board, in the County of Ocean and State of New Jersey, on the 15th day of January 2020, upon a motion made by James Gutowski and seconded by Barry Mescolotto, that the application of Light House Marine be granted, subject to the following terms and conditions:

1. The Applicant shall be bound by all exhibits introduced, all representations made and all testimony given before the Board at its meeting of January 15, 2020.
2. The Applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance, if required.
3. The Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the Applicant shall comply with any requirements or conditions of such approvals or permits.
4. The Applicant must comply with the Development Fee Ordinance of the Borough of Barnegat Light, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.
5. The Applicant is required to provide for any and all of the regulatory approvals required by law including, but not limited to the Ocean County Planning Board.
6. The Applicant is required to post all necessary site performance bonds, inspection fees and all professional review fees in accordance with the Ordinance.

7. The above approval is conditioned upon Applicant amending the application to Major Site and paying the associated fees.
8. Publication of a notice of this decision will be published in the official newspaper of the Barnegat Light Planning Board at the cost of the Applicant.

ADOPTED this 19th day of February 2020.

VOTE ON ROLL CALL:

IN FAVOR: Kirk O. Larson, Jeffrey Washburn, Frank Mikuletzky, Barry Mescolotto, Paul Sulock

OPPOSED: None

NOT- PRESENT: Chris Patterson, Danny Mears, Richard Manookian, James Gutowski,

CERTIFICATION

It is hereby certified that the attached is a true copy of the Resolution for Application #2020-1, approved on January 15, 2020 and duly adopted as to form by the Barnegat Light Planning Board and memorialized at its regular meeting held on the February 19, 2020.

BARRY MESCOLOTTO
Acting Chairman
Borough of Barnegat Light
Planning Board

ELAINE TOLLISON
Secretary
Borough of Barnegat Light
Planning Board

Application PB-2020-02, Minor Subdivision, John Brennan, Block 36 Lots 1 & 2

Mr. James Raban, Esq. represented Mr. Brennan. The property is located at the corner of 18th St. & the Blvd. where the Brennan Gas Station is located. They are proposing a minor subdivision. It is on the tax map as two lots, each are 62.50 ft. by 100 ft. He wants to subdivide to have two building lots to front 18th St. and to remove all of the current improvements from this site. There are no homes proposed at this time.

Mr. James Brzozowski, was sworn in. He is a licensed professional engineer and professional planner in New Jersey and is employed by Horn, Tyson & Yoder since 1997. He has testified before this board and prepared the minor subdivision plan. He said that the property has 125 feet of frontage on 18th St. and 100 feet on Central Ave. and is currently utilized as a gas station. They are proposing to subdivide into two single family residential lots, each being 62.5 feet by 100 feet facing 18th Street. It is located in the general business district and this would be a permitted use. There are no variances proposed. Mr. Mescolotto asked why they want to face 18th Street and Mr. Brzozowski said it was better access off of 18th Street and they try to stay off of the busier roads. Mr. Brzozowski said that if they applied to the Ocean County Planning Board that you couldn't back out of the driveways onto Central Ave. There were more questions from the board that Mr. Raban said that Mr. Brennan would answer. The existing retaining walls would remain in place. Mr. Brzozowski was asked about the monitoring wells and he said that is not his area of expertise and that Mr. Brennan would address this.

On a motion by Larson and seconded by Sulock, all in favor, the meeting was open to the public for Mr. Brzozowski.

Mr. Terrance Smith, 1805 Central Ave. was sworn in. Mr. Smith asked about the demolition. Mr. Brzozowski said he did not know and those questions should be asked of Mr. Brennan. Mr. Smith asked about the tank removal and the fill and the monitoring of the site. Again it was referred to Mr. Brennan to answer.

On a motion by Larson and seconded by Sulock, all in favor, the meeting was closed to the public for Mr. Brzozowski.

Mr. John B. Brennan was sworn in. He is the owner of the property for the past 22 to 23 years. Mr. Mescolotto asked Mr. Brennan if he planned to sell the lots vacate or developed. Mr. Brennan is undecided at this time. Mr. Brennan said that the property is under a remedial program and has a CEA put onto it and it is done by Brilliant Environmental Company. Mr. Brennan explained the CEA and the monitoring wells. He said that the site was cleaned up 23 years ago and the contaminated soil was removed. The wells were put into the ground and the wells dissipate the petroleum product that is in the ground. He feels it not extremely hazardous and that the state DEP is so stringent now that in having one percent benzene it is impossible to close the site out. He will have to continue monitoring the wells under the CEA. He said that drinking wells are not permitted in this particular area. Mr. Brennan said that all of the results are online or he can supply them. Mr. Coronato suggested to the board that they ask for an environmental impact statement to look at to show exactly what is going on with the DEP and to have a better insight at this site. Mr. Brennan said that he has all of it and would supply it and that they meet all of the DEP requirements. He said that he has to apply to the DEP for the tank removal permit. They will be pulled out, cut open and cleaned and Brilliant will issue a notification letter on the tanks and they will be taken away. If there is any contaminated soil below the bottom of the tank, then the wells will be able to clean it up completely. The building, asphalt and

curbing will be taken down by a demolishing company. The retention basin will have to be put back in or repaired since he is high there. He will look at the retention wall and replace or repair it since it is against the law to run water onto someone else's property. Mayor Larson said that Mr. Brennan is the one that took an abandoned gas station that had leaking tanks and fixed it up and thanked him for doing that. Mr. Sulock asked if the tanks were in a containment vessel and Mr. Brennan said the tanks were installed in 1966 and he cut them open and fiber glassed them and there is a thirty year warranty on them and there is ten years warranty left on it. He said that most of the pollution on the property came from ARCO. The environmental company will be there to take samples and it is to his advantage since he has the CEA and wants it all cleaned up. He said that the demolition would take about eight days. Mr. Brennan will be responsible any contamination on this property even if he sells the lots. Mr. Brennan does not know when the work would start. Mr. Mikuletzky said that the neighbors would probably like the work done before the summer.

On a motion by Larson and seconded by Sulock, all in favor, the meeting was open to the public for Mr. Brennan.

Mr. Terrence Smith, previously sworn in, said that he is thrilled that the gas station is leaving and thinks it has been an eyesore. Mr. Smith has concern about the work being done in season and Mr. Brennan cannot answer when the demolition would take place as he has to apply to the DEP for a permit, has to get permits for the water to be pumped through a filtering system, approval from the town to allow it to go into the sewer so he can't commit to a time frame. His intentions are to get everything done as quickly as possible. Mr. Washburn said that the town only limits the building hours but not time of year that they can build. Mr. Coronato said that Mr. Brennan is here only for the minor subdivision. Mr. Coronato wants the board to have the Brilliant Environmental impact statement to be fully informed as to this property. Mr. Smith was asking about the location of the wells and Mr. Coronato said that is why he should look at the impact statement. Mr. Smith asked about fencing and the retaining wall by his property and Mr. Brennan said he would look at it.

Mr. Chris Welch, 4 West 18th Street, was sworn in. He asked about which way the houses would be built. Mr. Brennan said they would face 18th Street. Mr. Welch said there is a well on their property and asked if it would be monitored. Mr. Brennan said yes, it would continue to be monitored until there is nothing left in the well and then at that time they could be sealed. Mr. Sulock asked how the wells are monitored. Mr. Brennan said that a representative from LSRP, has a bailer and they pump the well for about 5 to 8 minutes and they take samples to be sent out to a lab to be analyzed. When you have a CEA it is tested about every one to two years.

On a motion by Larson and seconded by Sulock, all in favor, the meeting was closed to the public for Mr. Brennan.

Mayor Larson asked Mr. Coronato if the board should wait to vote on the application. Mr. Coronato said that he wants the board to wait to vote until after they see the environmental impact statement. Mr. Brennan said that he will supply it but did not want to come back for another meeting. Mr. Coronato said that he could not recommend it as someone may have a question. Mr. Coronato said that a condition could be placed on it and that the property is switching from commercial to residential. Mr. Coronato said that the town engineer would review it and that the board members will also review it. Mr. Coronato said that from his experience he feels this is what should be done at this time. Mr. Coronato said that the board has heard the testimony and then the board would vote next month and

that the resolution could be memorialized then unless there is a condition and that would have to be added. Mr. Coronato said that if there were any questions he would contact Mr. Raban.

On a motion by Mikuletzky to carry over to the March 18th meeting and seconded by Larson

Motion: Mikuletzky

Second: Larson

Roll Call

Ayes: Mikuletzky, Larson, Sulock, Mescolotto, Washburn

Nays: None

Abstain: None

Absent: Gutowski, Patterson, Manookian, Mears

No further public notice is required

Open to the Public

On a motion by Mikuletzky, and seconded by Sulock, all in favor, the meeting was open to the public.

Mr. Philip Kahn, Esq. was representing Barlight Corp., LLC, also known as Kubels. Kubels is proposing to put in a transportable outdoor service bar on the northeast corner facing 7th Street. The property is zoned as commercial marine and he thinks that this should be a permitted use. Mr. Kahn passed around to the board a three page printout that has a picture and description of a 2018 Haulmark 7X12 EZ vending/concession trailer. He said it would be used for about 14 weeks or less a year with hours from 5:00pm to 9:00pm. The main purpose is to get rid of some of the crowding inside and put some control on what is happening outside when people waiting. They would only serve out of containers with no glass or bottles. They are looking for guidance and thinks this should be allowed. The liquor license is for the entire premises and that it didn't come with any conditions on it. He is hoping that this is something that they could go forward with and not have to do a site plan. Mr. Coronato said that he spoke with Mr. Kahn and they are considering this a workshop with the board. Mr. Coronato said that the town and Mayor and Council would have authority over the operation since this was a town issued liquor license. Mr. Coronato said that in his experience, the area has to be marked off so that minors would not have access. This workshop meeting cannot discuss variances since that requires public notice. Mr. Kahn said that Mr. Washburn told them that on the site plan they would be using a parking space and they already have a variance for a lower amount of spaces than they already have. Mr. Kahn said that they do have two spaces that are not on the plan but they are not regulation. Mr. Coronato said they wouldn't discuss that. Mr. Kahn said that it is a movable service area and feels it is permitted. He doesn't want to go through a site plan amendment approval process if it's something that's not required. Mayor Larson asked that if this is on wheels then would this be a vehicle. He thinks that maybe they should go to Council to change the liquor license and the hours of operation outside of their operation and then come back to the Planning Board for a change in the variance. Mr. Mikuletzky said that they are blocking some parking. Mr. Coronato said that is the issue and that the Planning Board would decide how big of a of space that needs to be blocked off and what they would require. He feels they should go to the Council for hours of operation, how many days they would use it, if the fence is movable. Mr. Mescolotto asked if there was any covering over this so people don't stand in the rain and Mr. Kahn said he didn't think so. Mr. Kahn said the liquor license does not limit the premises to not include outside. He thinks that the license granted would cover this as it's for the entire premises. Mr. Coronato said that this is an expansion of their license even though the whole property is licensed it did not include serving outside of the building. Mayor Larson said that he thinks that they should come to ask the Council. Mr. Washburn said that when the outside deck was approved the neighbors talked about not allowing only drinking outside. He feels that there would be a big fight about this with the

neighbors. Mr. Coronato said since this is a parking space there has to be a buffer so that nobody would get hit with a car. If the council approves then they would come back for an administrative approval from the Planning Board. Mr. Coronato said that they will probably have to give notice. Mr. Coronato said that the outside deck resolution does state that there will be no bar on the deck. Mr. Kahn said that he feels that in submitting a site plan that you open yourself up to conditions and doesn't want to do that if it's not necessary under the ordinance. Mr. Coronato said that the next step after Council would be to submit a proposal to Frank Little and then the Planning Board would discuss whether it would be an administrative approval or there has to be a site plan.

No other public comment.

Close to the Public

On a motion by Mikuletzky, and seconded by Washburn, all in favor, the meeting was closed to the public.

Mayor Larson wanted Mr. Coronato to review some of our hotel/motel regulations regarding parking, loading zones, seating, ect. to see if there are any holes. Mr. Coronato said that he would to that. A discussion followed about protecting the town. Mr. Sulock asked about Brennan's tank removal and a discussion followed about that. Mayor Larson spoke about building large houses and how parking spaces are calculated. Mr. Coronato said that in some towns they base parking space requirements on square footage of bedroom space or bedroom count. Mayor Larson said his thought is that over a certain amount of square footage that they would have to come before the board. A discussion followed about large houses becoming rental properties and perhaps site plan approval would be necessary. A discussion followed regarding flooding on properties and what can be done about that as it's become an issue.

On a motion by Larson and seconded by Washburn the meeting was adjourned.

Elaine Tollison
Planning Board Secretary