

**Bradley Beach Land Use Board
Regular Meeting Minutes
Meeting Held in Person at 701 Main Street
Thursday, February 15, 2024 @ 6:30 PM**

Regular Meeting is called to order at 6:30 PM.

Open public meeting announcement is made by the Board Secretary.

Roll Call:

Present: Mayor Larry Fox, Liz Hernandez, Councilwoman Kristen Mahoney, Dennis Mayer, Robert Mehnert, William Psiuk, Kelly Reilly-Ierardi, Deborah Bruynell, Arianna Bocco, Timothy Sexsmith, Mary Pat Riordan

Absent: Paul Murphy and Lauren Saracene

Also Present: Mark G. Kitrick, Esq., Gerald Freda, PE, PP, CME, and Donna Barr – Zoning Officer

Swearing in of New/Reappointed Board Members: Mark Kitrick, Esq. indicates that Arianna Bocco, Timothy Sexsmith, and Mary Pat Riordan have all been sworn in.

Approval and Adoption of Meeting Minutes from the Reorganization Meeting and Regular Meeting of January 18, 2024 – Motion to adopt offered by Dennis Mayer, seconded by William Psiuk. All eligible members present in favor.

Resolutions Memorialized:

Resolution 2024-01 – Approval of Officers for 2024

Resolution 2024-02 – Approval of Professionals for 2024

Resolution 2024-03 – Approval of Newspapers for Publication for 2024

Resolution 2024-04 – Approval of Meeting Dates for 2024

Applications Considered:

LUB24/01 (Appeal of Zoning Officer’s Issuance of Permit to 613 Fourth Avenue) – Jay & Grace Truppo of 611 Fourth Avenue – Appealing Block, 60, Lot 6 – 613 Fourth Avenue – Appellant is appealing the issuance of a Zoning Permit that was issued to Patrick Clancy, Jr. and Carol Parks for the work being performed at 613 Fourth Avenue. The Appellants recently discovered evidence that the scope of the zoning permit and work being performed may violate the Borough’s Ordinance regarding a second-floor upper porch which is being installed on the side yard portion of the structure located at 613 Fourth Avenue.

Tennant Magee, Esq. appeared on behalf of the appellant.

Ms. Donna Barr is sworn in.

Mr. Magee explains that a Zoning Permit for a side yard upper deck was issued, and he believes this zoning approval violates the Borough's Ordinance regarding same. Mr. Magee also indicates that he believes a compromise may have been reached after discussions with the homeowners and the Zoning Officer in reference to allowing the partially constructed 2nd floor side yard porch to remain for decorative purposes only and will not be usable. It will be strictly for aesthetics.

Mr. Magee is advised that the letter provided by his clients cannot be read into the record and that they must be present to provide comment.

Ms. Barr indicates she is in agreement with the proposed amendment and will issue a revised determination allowing for the 2nd floor side yard porch to be constructed for aesthetic reasons only and that utilization of this area will be prohibited.

Mr. Magee requests that this matter be carried to the March 21st meeting with the understanding that this issue should be resolved prior to that date. If the issue is resolved as expected, a notice indicating withdrawal of this appeal will be transmitted.

Based upon the testimony and reasoning provided a motion to carry this matter to the March 21, 2024 meeting pending possible resolution is made by Kelly Reilly-Ierardi; moved and seconded by Dennis Mayer - All Members Present in Favor.

LUB23/16 (Revote on Bulk Variances for Single Family Dwelling on an Undersized Lot) – One Hundred Sixteen Cliff Ave, LLC – Block 11, Lot 7 – 116 Cliff Avenue - This Application is under consideration for a revote due to the ineligibility of a member that voted at the November 16, 2023 hearing. No new testimony nor evidence will be presented regarding the application. All members voting must have been present at the November 16, 2023 hearing or those that were not present must provide a signed certification form that they have listened to the recording from the November 16, 2023 meeting in order to be eligible to vote.

****Robert Mehnert remains recused from participating in this matter****

Jeffrey Beekman, Esq. appeared representing the interests of the Applicant.

All Board Members present are eligible to vote on this matter. Those that were present at the original hearing and those that were not present have listened to the audio of the original hearing and have signed certifications indicating they are eligible to vote including Ms. Mahoney even though she was present at the original hearing but was not an official Board Member at that time.

Mr. Beekman proceeds to explain the procedure and that due to an oversight Ms. Mahoney was ineligible to vote at the prior hearing as a formal resolution of the Council appointing her as the Class III Member to the Board was not officially adopted/memorialized until after the hearing on November 16th. Mr. Beekman indicated that he expressed that corrective action be taken on this matter and Mark Kitrick, Esq. reviewed the facts and has recommended this revoting procedure. Mr. Kitrick cites Schmidhausler vs. Lake Como and indicates this unfortunate oversight of eligibility/ineligibility was an honest mistake. Therefore, in an effort to alleviate additional expense to the applicant the case discusses a revote to which the applicant has agreed.

Mr. Beekman indicates he reserves his rights and the rights of his client as this is a due process issue.

Councilwoman Kristen Mahoney asks about eligibility of Mr. Sexsmith who was not a member at the time of the original hearing. It is explained they do not believe it is a conflict or a major difference than a member who had not been present.

Based upon the testimony provided at the original hearing of November 16, 2023, Chair Dennis Mayer makes a motion to approve this application with the same conditions remaining regarding the utility easement, engineering plan based on stormwater management regulations, the reduction in the balcony, and compliance with the Board Engineer's Review letter; moved and seconded by Deborah Bruynell:

Those in Favor: Kelly Reilly-Ierardi, Mayor Larry Fox, Deborah Bruynell, Timothy Sexsmith, Dennis Mayer

Those Absent: Paul Murphy, Lauren Saracene

Those Recused: Robert Mehnert

Those in Opposition: Liz Hernandez, Councilwoman Kristen Mahoney, William Psiuk, Arianna Bocco

Those Ineligible: Mary Pat Riordan

LUB23/31 (Appeal of Zoning Officer's Determination) – Peter F. Goggi – Block 56, Lot 6 – 503 Fifth Avenue – Applicant is appealing the Zoning Officer's Denial of Permit for the proposed construction of a 2nd floor dormer. The Zoning Officer's determination indicates the existing dwelling is nonconforming due to existing front and side yard setbacks and that the proposed dormer constitutes an expansion of the nonconforming structure.

Peter Goggi, Kate Berker, PE, Donna Barr, and Gerald Freda are all sworn in.

When the home was purchased, structural inspections indicated that the roof was failing, and the back side of the roof needed to be removed in order to correct the issue. They felt this was a great opportunity to add additional living space and storage.

Kate Berker, PE – Structural Engineer – indicates she performed the inspection at the time of purchase. Ms. Berker showed a photo of the existing rafters and explains the work that is being proposed.

Jerry Freda explains that if the wall is being raised it requires a variance.

Thomas J. Coan – asks to go back to the rear picture of the house and asks if the expansion portion is brought in 1 ½ feet it would appear to have a cottage look. Ms. Berker explains that it would change the layout of the interior.

Donna Barr indicates the proposed 2.1-foot side yard setback was the basis of her denial.

Thomas J. Coan – 612 Third Avenue – sworn in – Mr. Coan agrees with the Zoning Officer's denial of permit and indicates that many people have done this workaround in order to avoid needing the variance.

Based upon the testimony provided, Chair Dennis Mayer makes a motion to uphold the determination of the Zoning Officer and deny Applicant's request for appeal; moved and seconded by Robert Mehnert:

Those in Favor: Robert Mehnert, Kelly Reilly-Ierardi, Liz Hernandez, Deborah Bruynell, Arianna Bocco, William Psiuk, and Dennis Mayer

Those Absent: Paul Murphy, Lauren Saracene

Those Recused: None.

Those in Opposition: None.

Those Abstained: None.

Adjournment:

Next scheduled meeting will be our **Regular Meeting on Thursday, March 21, 2024 at 6:30 PM** which will also take place here in the Municipal Complex Meeting Room located at 701 Main Street, Borough of Bradley Beach. Please check our website for any updates regarding meeting location and/or access.

With no further business before the Board a motion to adjourn was offered by Dennis Mayer moved and seconded by Deborah Bruynell. All in favor. Meeting closed at 7:29 PM.

Minutes submitted by Kristie Dickert, Board Secretary