

## MANALAPAN ZONING BOARD OF ADJUSTMENT

### MINUTES OF THE REGULAR MEETING

**Thursday, February 15, 2018**  
**TOWNSHIP OF MANALAPAN – Courtroom**  
**Manalapan, NJ 07726**

The meeting was called to order with the reading of the Open Public Meetings by Chairman Stephen Leviton at 7:30 p.m. followed by the salute to the flag. **Chair Leviton asks for everyone to observe a moment of silence to reflect on the 17 lives lost in the Parkland shooting.**

Roll Call: Janice Moench

In attendance at the meeting: Mollie Kamen, Terry Rosenthal, Larry Cooper, Eric Nelson, Eliot Lilien, David Schertz, Adam Weiss, Steven Leviton

Absent from the meeting: Eve Strauss and Mary Anne Byan

Also present: John Miller, Esq., Zoning Board Attorney  
Nancy DeFalco, Zoning Board Officer  
Janice Moench, Recording Secretary  
Brian Boccantuso, Engineer

Chair Leviton stated for the record the Braverman application no. ZBE1752 on the agenda this evening will be rescheduled to a later date. The noticing was insufficient. The applicant will renote.

### RESOLUTIONS:

#### Application No: ZBE1741

Applicant: Battleground Country Club, LLC  
Memorialization of Approval

Location: 1 Covenhoven Road ~ Block/Lot: 6503/1 & 6504/1

A Motion was made by Mr. Schertz, Seconded by Mr. Nelson to approve the Resolution of memorialization.

Yes: Nelson, Lilien, Schertz, Weiss, Leviton

No: None

Abstain: None

Absent: Strauss, Byan, Kamen

Not Eligible: Cooper, Rosenthal,

### PUBLIC HEARINGS:

- Application No: ZBE1626EX  
Applicant: PRC Development Co. Inc. /QuickChek  
Proposal: Extension of Time for Minor Subdivision Approval  
Request: Extension of Time  
Location: 270 Monmouth Rd. & 45 Smithburg Rd.  
Block/Lot: Block: 84.02 L: 2, 3.01 and 3.03

Mr. Peter Wersinger was present on behalf of PRC Development Co. Inc. / QuickChek. He explained in April of 2017, the Zoning Board approved a Minor Subdivision as it relates to the consolidation of three parcels of land into two parcels. The Site plan approval was also granted as it related to the

development of a QuickChek fuel dispensing facility and food store. The Minor Subdivision is good for 190 days from the date of memorialized resolution which was June 1, 2017. There is a provision in Manalapan regulations as well as the MLUL (Municipal Land Use Law) for an extension of time. The applicant is required to show there was inability to file the subdivision deed. Mr. Wersinger explained in 2016 the applicant applied to the Monmouth County Planning Board for approval and secured the approval with conditional uses on January 9, 2017. The applicant submitted and received a compliance approval from Monmouth County last week. The New Jersey Freehold Soil Conservation District approvals were received on July 26, 2017. The local Health Department approval was received on September 12, 2017. The Environmental Commission recommendations were received on February 13, 2017. The Manalapan Fire Prevention issued approval on January 23, 2017. Flood Hazard Area Verification was received March 21, 2017. Mr. Wersinger explained the open items left are New Jersey Department of Environmental Protection. The Letter of Interpretation was applied for in November of 2016 however, the applicant just received the LOI in December of 2017. The applicant respectfully requests an extension that will allow them to proceed with the filing of the Minor Subdivision. Mr. Wersinger explained the applicant closed on the Delucia property and is scheduled to close on the Bulk property on February 22, 2018. With those closings in place the applicant will be able to file the subdivision and proceed. The facility should be completed and available to Manalapan Township residents by the beginning of 2019. The applicant is required to deliver a pad ready site for development of the facility by July 1<sup>st</sup>.

Mr. Boccanfuso states the applicant submitted the resolution compliance to the CME office in January. Mr. Boccanfuso explained his office is reviewing it and expects to have a compliance review report within one week. He explained it wouldn't have been feasible for the applicant to submit compliance prior to receiving the outside agency approvals, being CME would have requested the same approvals. Mr. Boccanfuso explained the application being held up with the DEP for such a long period of time, addresses the criteria necessary for the extension.

Chair Leviton asked if the Board had any questions for Mr. Wersinger.

Mr. Miller explained under the MLUL the Extension of Time is good for one year. However, it is retroactive to the date of the memorialization of the resolution. If the one year extension is granted it will good through June 1, 2018.

Chairman Leviton opened the floor to the public for any comments or questions for the applicant. Seeing there were none, he closed public

A Motion was made by Mr. Rosenthal, Seconded by Mr. Lilien to approve the Extension of Time.

Yes: Rosenthal, Cooper, Nelson, Lilien, Schertz, Leviton  
No: None  
Abstain: Kamen  
Absent: Strauss, Byan

Chair Leviton stated Ms. Kamen has entered the meeting and will be part of the proceedings going forward. Mr. Boccanfuso exited the meeting at this time.

- **Application No: ZBE1750**

Applicant: Robert & Gina Volkert  
Proposal: Ratification of shed, concrete, bar, accessory structure & Barbeque Pit  
Request: Bulk Variance-setback Relief  
Location: 17 Gordons Corner Rd  
Block/Lot: 20/25  
Zone: R20

Robert and Gina Volkert were sworn in by Mr. Miller. Mr. Volkert explained over the years he has lived in the home he made some changes to the backyard. Mr. Volkert explained he replaced a shed, built a playhouse for his Daughter and put up a tiki bar by the pool. Mr. Volkert went to the township to enquire about the changes he made because he wanted to put his home on the market. When he went to the township he was made aware some of the items were not in compliance. The Zoning Office advised Mr. Volkert part of the pool patio, existing when they purchased the home, was in the setback. It is approximately a 40 ft section of concrete approximately two feet from the property line. Mr. Volkert explained he was surprised when this was brought to his attention because he had a certificate of occupancy inspection when he purchased the home. Mr. Volkert explained at this point and time he has a buyer for his home. The buyer would like to keep things in tact in the back yard.

Mrs. Volkert explained there is a barbeque pit in the backyard that existed when they purchased the home. This is another item not in compliance due to the location. Mrs. Volkert discussed the pictures submitted with the application. She provided copies for the Board members to view. The pictures were submitted with the application so they were not marked as exhibits.

Mr. Miller explained to the Board these improvements were built without prior approval. He reminds the Board their duty is not to punish anyone for getting the approvals. The Board can inquire as far as the proofs needed for the variance relief in order to justify the improvements.

Mr. Cooper inquires about the existing concrete around the pool and if it was shown on the survey. The applicant confirms it is on the survey submitted with the application.

Mr. Rosenthal asked if the prior owner was able to obtain a CCO with the concrete not in compliance. The applicant confirms same. Mr. Rosenthal confirmed with the applicant that the shed, playhouse and tiki bar were put in by the applicant. The barbeque and the concrete existed when he purchased the home.

Ms. Kamen asks how long the applicant has owned the property. Mr. Volkert explained they purchased the home on June 20, 2000.

Mr. Schertz asks how old the home is. Mr. Volkert stated the home was built in 1958. Mr. Schertz asked if the zoning differed in 1958. Ms. DeFalco explained she wasn't sure if the zoning laws were created in 1958 however, they were in effect in 2000 when the Volkert's purchased the home. Ms. DeFalco explained it may have just been overlooked for the CCO inspection, but the homeowner has a survey dated 2000 which proves it existed at that time.

Mr. Weiss asked if there was a stairway inside the playhouse. Mr. Volkert explained there are two steps with a handrail. Mr. Weiss asked if the playhouse was equipped with smoke detectors. Mr. Volkert advised there are no smoke detectors.

Mr. Cooper asked if there is electric in the playhouse. Mrs. Volkert stated the playhouse does not have electric. Mr. Cooper asked about electric in the tiki bar. Mr. Volkert explained the electric is disconnected.

Mr. Weiss asked what the floor of the tiki bar was made of. Mr. Volkert explained the floor is pressure treated decking at ground level.

Chair Leviton explained the pad and/or floor of the tiki bar is encroaching into the setback. Ms. DeFalco explained the bar would be part of the application as well.

Mr. Cooper and Mr. Volkert discussed how the tiki bar is built. Mr. Weiss and Mr. Volkert discussed how the electric was installed. Ms. DeFalco explained, if the Board should approve the application, the applicant would have to obtain the proper permits and inspections.

Mr. Cooper asked Ms. DeFalco if the height of the playhouse would require variance relief. Ms. DeFalco explained the maximum height of an accessory structure is 15 feet.

Mr. Rosenthal reviews the variance relief proposed.

Ms. Kamen asked if there yard is fenced in. Mr. Volkert confirmed the yard is fenced in.

Mr. Cooper asked if the barbeque is gas. Mr. Volkert explained the barbeque is charcoal.

Mr. John Castaldo of 32 Arbach Lane, the buyer's real estate agent is sworn in by Mr. Miller. Mr. Castaldo explained the prospective buyer of 17 Gordons Corner Road wanted to attend the meeting however, they had a family emergency. Mr. Castaldo was present to read a letter emailed to him by the prospective buyer of 17 Gordons Corner Road. Mr. Miller marked the letter as exhibit A1. Mr. Miller explained to the Board that the letter is technically a hearsay statement. The letter stated the buyers are aware the items are not in compliance but would like to keep them.

Chairman Leviton opened the floor to the public for any comments or questions of the applicant. Seeing there were none, he closed public

Mr. Cooper explained he would approve the application with the condition that if the structures should become damaged or need replacing, they are replaced up to code with inspections.

Mr. Miller asked if the neighboring properties had any similar items or structures located on their properties.

Mr. Volkert explained the playhouse is one of a kind that he built and there are pools in the neighboring yards. Mr. Miller asked if they fit the setback requirements. Mr. Volkert explained he doesn't know the neighboring properties well enough to discuss setbacks. Mr. Miller asked if the adjacent neighbors have ever complained or made comment about the structures. Mr. Volkert explained he never had a neighbor make a comment or complaint. Mr. Miller and Mr. Volkert discussed the fencing and the surrounding properties in more detail.

Mr. Miller and Mr. Weiss clarify, if a structure requiring a variance would need to be replaced, it can be rebuilt in the same footprint on the same scale.

A Motion was made by Mr. Cooper, Seconded by Mr. Schertz to approve the application.

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| Yes:     | Kamen, Rosenthal, Cooper, Nelson, Lilien, Schertz, Leviton |
| No:      | None   |
| Abstain: | None   |
| Absent:  | Strauss, Byan  |

Chair Leviton opened the floor to the public for any non-agenda items. Seeing none, he closed public.

**ADMINISTRATION:**

Chair Leviton, Mr. Miller and the Board discussed what measures are in place to compel an applicant to come before the Board if they continuously postpone.

Chair Leviton informed the Board that there are a number of tentative Applications to be heard in the future. The next meeting will be March 1, 2018.

**ADJOURNMENT:**

A Motion was offered by Chair Leviton and agreed by all to adjourn the meeting at 8:30 PM.

Respectfully Submitted,

Janice Moench  
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE  
AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY  
APPOINTMENT.