

**BRADLEY BEACH ZONING BOARD  
OF ADJUSTMENT**

**OCTOBER 20  
Regular Meeting**

The meeting was called to order by Chairman Conoscenti at 6:40 P.M.

Pledge of Allegiance

Open Public Meeting Act – Open Public Meetings Act was read

**ROLL CALL: MEMBERS PRESENT –** Chairman Conoscenti, Vice Chairman Goldfarb, Mr. Kovach, Mr. Bachar, Mr. Rosenberg, Mr. Battipaglia, Mrs. McGorry, , and Mr. Psiuk of the Planning Board

**MEMBERS ABSENT:** Ms. Falk, Mr. Quinlan

Also in attendance were Richard Stone, Board Attorney, and Elissa Commins, Board Engineer, and William Gray, Zoning Officer

**A QUORUM WAS PRESENT**

**APPROVAL OF MINUTES:** Approval of minutes of the meeting on September 15, 2011, on motion made by Chairman Conoscenti and seconded by Mr. Rosenberg, and carried by unanimous vote.

**JOINT SUBCOMMITTEE REPORT:** Mr. Rosenberg reported that the topics of discussion at the joint subcommittee meeting on October 6, 2011, were the following: street café licenses, pedestrian safety, and various issues with trees, especially along Main Street. The subcommittee decided to invite all restaurant owners/operators to the next joint subcommittee meeting that will be held on Wednesday, December 14, 2011, at 6:30 p.m. in the meeting room.

**MEMORIALIZATION:**

**FOR CONSIDERATION: Amended Resolution  
FRANCES MEHNERT, 1107 ½ Ocean Ave. 13/15  
(Prior approved Application under appeal Docket No. L-5041-10)  
Michael J. Wenning, Esq., Attorney for Applicant  
Martin J. Arbus, Esq., Attorney for Objectors**

Mr. Stone, Board's attorney, reviewed the current status of the appeal, and entered into evidence the Order of Superior Court Judge Lawrence M. Lawson dated August 31, 2011. – A-20. The Order required that the Board of Adjustment hold a hearing, with notice to all parties, and to prepare and adopt a new resolution.

Thereafter, Mr. Stone outlined the procedure that would be followed and requested that both Mr. Wenning and Mr. Arbus comment on the proceedings. At this point, Mr. Arbus requested that he wished to address the Board members and would make an attempt to have them change their original “yes” vote. Mr. Wenning strongly objected to Mr. Arbus attempt to influence the vote of the Board members, and stated that this hearing was solely to have them (the members) approve the content of the memorialization of the previously approved application. Further, Mr. Wenning preferred that Mr. Arbus not speak at all. Mr. Stone initially responded that the Board has already granted approval to the applicant, and it would be better if the remarks of Mr. Arbus on behalf of his clients were included, not excluded.

Mr. Stone then discussed if the vote of the members could be changed – and asked the Board members if the amended Resolution reflects what they want, and if so, would be approving the sum and substance of the content that was taken from the transcript to support their respective decision. In any event, the applicant or the objectors could appeal the proceedings at this hearing.

Thereafter, an extensive legal-based discussion took place among Mr. Stone, Mr. Wenning and Mr. Arbus regarding the right of Mr. Arbus to speak, etc. A few cases of law were referred to, but not one of an exact description as the one now under consideration. Also, it was noted that the Order did not state Resolution of approval, but rather questioned the validity of the Resolution. Mr. Stone stated that in his opinion, the only purpose of the Order was to re-construct the Resolution so that it is clarified for the Judge to review and make a subsequent ruling. It was also noted during discussion that the matter was remanded to the Board as no definitive reasons were stated as to why they voted the way each one did, and Mr. Arbus noted that some members felt to get rid of on-site parking was not a positive which is why he (Mr. Arbus) felt that he could get some members to re-consider his or her vote.

Thereafter, with dialogue continuing, Mr. Stone stated that the members cannot change their vote and the purpose at this point is to memorialize only not to re-draft the situation. Mr. Arbus responded that he looked at the situation differently (making reference to an old movie), and provided one example from the official transcript of the hearing wherein a Board member commented that the applicant was trying to provide parking. However, the proposed building height could be lowered by removing the basement floor with on-street parking safer in this case. Mr. Wenning objected to Mr. Arbus entering into conversation with Board members and re-arguing the entire case. Mr. Stone agreed that this was not the purpose here. Mr. Arbus then attempted to review positive criteria and Mr. Stone that now he was dealing outside of the parameters and he can’t re-argue the case.

Mr. Arbus responded that he would argue it before Judge Lawson. Mr. Wenning also noted his Notice to property owners was for the memorialization of prior approval and Chairman Conoscenti stated that much time was spent on this application and it was returned from the Court.

At this point, a vote on the memorialization was taken on motion made by Chairman Conoscenti and seconded by Vice Chairman Goldfarb as follows:

**AYES:**

Chairman Conoscenti, Vice Chairman Goldfarb, Mr. Rosenberg, Mrs. McGorry (It should be noted that Mr. Psiuk of the Planning Board initially entered a “yes” vote; however, it was noted that his original vote on the approval of the project was “no”, and therefore his vote had to be withdrawn.)

**NAYES:** None recorded

**INELIGIBLE:** Mr. Psiuk

**ABSENT:** Ms. Falk

At this point, a brief recess was held.

**NEW BUSINESS:**

**ZBA#411-1-06-11 – Pro Se  
PAUL & MARY ANN PASUIT  
603 Burlington Ave. – 89/3**

**Construct partial 2<sup>nd</sup> floor addition, renovate detached garage  
And renovate existing enclosed front porch – Bulk variances**

The following documents were entered into evidence

**A-1 Application to make specific renovations to the PIQ signed by Paul Pasuit and dated September 21, 2011.**

**A-2 “Survey of Property” Lot 3, Block 89, prepared by Acre Survey Co., Inc., dated 12/11/2007 (1 sheet, unsealed)**

**A-3 Architectural plans for proposed building addition consisting of three (3) sheets, signed, sealed, prepared by M. B. Hearn Architecture, LLC, and dated 09/14/2011.**

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**A-4 Copy of Notice of Hearing to Property Owners signed by the applicants and dated October 6, 2011.**

**A-5 Affidavit of Publication of Asbury Park Press dated October 10, 2011.**

**A-6 Affidavit of Service signed by Paul Pasuit and dated October 13, 2011.**

**A-7 Certified Receipts of Mailing dated October 8, 2011**

**A-8 Photoboard**

**B-1 Letter of Elissa Commins, Board Engineer, dated October 7, 2011**

**Prior to the hearing, Mr. Goldfarb stepped down.**

**At the outset, the following were sworn in by Attorney Stone: applicants Paul and Mary Ann Pasuit, and Mary Hearn of M.B. Hearn Architecture, LLC. Having previously testified before this Board, Ms. Hearn was accepted as a licensed architect an expert witness.**

**Ms Hearn, architect, provided the background of the PIQ, stating that 2.5 years ago, a partial second floor was approved for their one-story home that did not extend all the way to the rear of their house. As family visits often, the need for more room became apparent and they are seeking a variance for lot coverage as this addition has two small areas not on the footprint. Ms. Hearn then referred to the site plan and discussed the following: total square footage (59 sq. ft); “square” out the rear addition; undersized lot; R-1 zone; continue roofline; corner column; and bedroom within footprint. Continuing, Ms. Hearn reviewed side yard setbacks and lot coverage, and noted that the front porch, while existing, the applicants would like to winterize it and provide a room with heat and cooling that can be used as living space. She further stated that the porch does not block any view to east or west so there is no detriment to the neighbors, and if approved, 15.6 X 7’ would be used as living space. In addition, if the garage is reconstructed, the applicants would have to come back before the Board. It was noted that the Pasuits did a good job of renovating and keeping their property in good condition, and have lived here full time since June. Finally, Ms. Hearn stated that the proposed renovations fit in with the neighborhood and will make a beautiful project.**

**At this point, Chairman Conoscenti opened the meeting up to the public.  
THERE WERE NO PUBLIC COMMENTS**

**After final discussion, Chairman Conoscenti made a motion to approve the application, as presented, with the two year commence construction clause,**

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**seconded by Mr. Bachar, and carried by the following vote, with comments:**

**AYES:**

**Chairman Conoscenti – approve-the work previously completed was excellent and the addition will provide for a better use for the applicants.**

**Mr. Bachar – approve-nice property and the addition will enhance it even further.**

**Mr. Rosenberg – approve-agrees with prior statements, ie. It will enhance the property and provide for better use.**

**Mr. Battipaglia – approve-a nice finish to a great project with no negative effects on the neighborhood.**

**Mr. Kovach – approve-while not pleased with encroachment, the addition does fit in with the neighborhood and the applicants plan to stay for the long term.**

**Mrs. McGorry – approve-would like applicants to continue with the same architect so that it blends in with the surrounding properties. Further, it will be an improvement to the neighborhood.**

**NAYES: None recorded**

**ABSENT: Ms. Falk, Mr. Quinlan**

**There being no further business, the meeting was adjourned at 7:45 p.m.**

**Respectfully submitted,**

**Frances M. Sauta, Board Secretary**