

Office of the Board of Commissioners
Borough of Monmouth Beach
February 28, 2017

This meeting is called pursuant to the provisions of the Open Public Meetings Law. Notice of this meeting was included in the annual notice of meetings that was published in the Asbury Park Press on December 20, 2016 and in The Link News on December 22. In addition, a copy of the notice was posted on the bulletin board in the Municipal Building and filed in the office of the Municipal Clerk on December 20, 2016, where it has remained continuously posted as required under the statute.

Mayor Howard called the meeting to order at 6:00 pm.

Present – Mayor Howard, Commissioner Cunniff, Commissioner Mitchell
Absent – None

Commissioner Cunniff moved, seconded by Commissioner Mitchell that bills totaling \$2,173,612.83 which had been reviewed by their respective department heads, be approved for payment.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0-.

Borough Attorney Dennis Collins noted that the only item on the agenda was a Resolution to memorialize the decision made by the Commissioners at their February 7 meeting to deny the construction variance application submitted by Joanne and Richard Sealaus, the owners of 2 Sailors Way.

Mr. Collins said that John Tatulli, the attorney for the homeowners, had called him to ask for an opportunity to present their case before the Commissioners. He said he explained to Mr. Tatulli that even though a hearing is not usually held, Mr. Tatulli could address the Commissioners since they are a public body.

Mr. Tatulli thanked the Commissioners and Mr. Collins for the opportunity to present his case this evening. He noted that he had asked a court reporter to attend the meeting and that a transcript of the proceedings would be created.

Following is the transcript of the portion of the meeting dealing with the Sealaus variance:

Sheet 1 (1-4)

<p>1 BOROUGH OF MONMOUTH BEACH 2 BOARD OF COMMISSIONERS' HEARING 3 Tuesday, February 28, 2017 4 6:00 p.m.</p> <p>4 RE: Property at 2 Sailors Way</p> <p>6 BOARD OF COMMISSIONERS: 7 JOYCE ESCALANTE, CLERK 8 DENNIS COLLINS, Esq. 9 JEFFREY MITCHELL 10 JAMES CUNNIFF 11 JUDY WILSON 12 BONNIE HEARD, ENGINEER</p> <p>14 IN ATTENDANCE: 15 JOHN R. TATULLI, ESQ.</p> <p>20 PATRICIA A. FORNAROTTO, 21 CERTIFIED SHORTHAND REPORTER</p>	<p>1 I N D E X</p> <table border="0"> <tr> <td>2</td> <td><u>WITNESS</u></td> <td><u>PAGE</u></td> </tr> <tr> <td>3</td> <td>CHESTER DILORENZO</td> <td>9</td> </tr> <tr> <td>4</td> <td>JEFFREY SCHNEIDER</td> <td>27</td> </tr> <tr> <td>5</td> <td>RICHARD SELAUS</td> <td>31</td> </tr> </table> <p>7 <u>EXHIBITS MARKED FOR IDENTIFICATION</u></p> <table border="0"> <tr> <td>8</td> <td><u>NO.</u></td> <td><u>DESCRIPTION</u></td> <td><u>PAGE</u></td> </tr> <tr> <td>9</td> <td></td> <td></td> <td></td> </tr> <tr> <td>10</td> <td>A-1</td> <td>3/22/16 Resolution</td> <td>11</td> </tr> <tr> <td>11</td> <td>A-2</td> <td>Clare letter, 10/31/16</td> <td>12</td> </tr> <tr> <td>12</td> <td>A-3 thru A-7</td> <td>Series of Resolutions</td> <td>18</td> </tr> <tr> <td>13</td> <td>A-8</td> <td>Series of maps</td> <td>27</td> </tr> </table>	2	<u>WITNESS</u>	<u>PAGE</u>	3	CHESTER DILORENZO	9	4	JEFFREY SCHNEIDER	27	5	RICHARD SELAUS	31	8	<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>	9				10	A-1	3/22/16 Resolution	11	11	A-2	Clare letter, 10/31/16	12	12	A-3 thru A-7	Series of Resolutions	18	13	A-8	Series of maps	27
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<p>1 MR. COLLINS: The next item on the 2 agenda, John Tatulli, Esquire is here on behalf of 3 the property owners of 2 Sailors Way, Monmouth 4 Beach. For the commissioner's information because 5 this will be probably the first time you've seen 6 anything like the presentation Mr. Tatulli will put 7 on, this is, you may recall that there was a 8 request for a waiver from the flood protection 9 ordinance of the borough which the commissioners 10 have done a couple of over the last four to five 11 years since you adopted the flood damage prevention 12 regulations in conjunction with the FEMA 13 consultation, FEMA's consultation with the borough. 14 At our last meeting, the commissioners denied the 15 request for a variance. You may recall and it's 16 really the same, although Jeff's new, the issue 17 that was the commissioners discussing is not 18 memorialized yet by resolution but we wanted to get 19 Mr. Tatulli in as quickly as he could to make his 20 pitch was generally associated with the history of 21 Monmouth Beach. The, you may recall, gosh, how 22 many years ago, eight, nine years ago the FEMA and 23 the National Flood Insurance Program put the 24 Borough of Monmouth Beach for practices that 25 predated, you know, these commissioners, related to</p>	<p>1 flood damage prevention and construction code 2 compliance. The entire borough was put on 3 probation with a surcharge and there was the threat 4 of the revocation of all flood insurance policies 5 in the community. Although previously the borough 6 acted to resolve that, you have, you as a body have 7 instituted a flood damage prevention ordinance in 8 conjunction with FEMA and you've also over the 9 course of the last five years, at least or four or 10 five years been part of an auditing program with 11 FEMA in order to seek acceptance into the Community 12 Rating System, the CRS system. And I'm doing this 13 partly for John's sake and his clients' sakes for 14 the history so you know where the commissioners are 15 operating. That is an effort to bring the 16 community into compliance with the flood damage 17 prevention regulations, provide, because we are the 18 local enforcing agency it is our responsibility to 19 do so. You hired, Miss Heard came on board 20 personally, Mr. Clare came on board with an 21 expertise in that area and we have over those years 22 tried to get the approval to be part of that 23 program. 24 The crucial part with that program 25 and the acceptance into that program is, it will</p>																																				

<p>5</p> <p>1 result, it will result in a 10 to 30 percent 2 reduction in the flood insurance rates charged to 3 all your residents in the Borough of Monmouth 4 Beach. \$1.3 million was spent last year by our 5 residents on flood damage -- I'm sorry, flood 6 insurance so the potential savings to those 7 residents are between 130 and \$390,000 in flood 8 insurance on an annual basis.</p> <p>9 Under the ordinance as you are aware, 10 any person has the right to ask for a variance from 11 that which is what Mr. Tatulli did. We ordinarily 12 don't have a hearing. There is no, you know, 13 requirement for a hearing meaning a public 14 presentation but because it's a public, you're a 15 public entity, people are entitled to come to a 16 public meeting and make a pitch which I told Mr. 17 Tatulli.</p> <p>18 Just so you understand, and I know 19 Commissioner Cunniff formerly sat on the planning 20 board and so did Commissioner Mitchell. This is 21 not a variance application that you sat through at 22 the planning board. The planning board is a quasi 23 judicial body which when you looked at variances 24 there was a stated municipal land use law standard 25 that you apply when persons ask for variances.</p>	<p>6</p> <p>1 That is a totally different animal than requesting 2 a government agency vary from the regulations that 3 they adopt as part of a flood damage prevention and 4 because it's a separate concept. Under the flood 5 damage in a zoning case, in a planning board, all 6 but two of those members are appointed officials 7 because the mayor one, commissioner sits but all of 8 them are appointed officials and it's a general 9 planning scheme. Here this is a separate type of 10 ordinance. This is a health, safety and welfare 11 ordinance and you're asked to deviate from that 12 requirement.</p> <p>13 One of the things that's important to 14 note, too, and I'm not sure if you are aware or 15 not, there was proceedings before the planning 16 board on this application. I don't even know if 17 the planning board took action or not. My 18 understanding is this issue didn't come up before 19 the planning board; it should not have come up 20 before the planning board. The planning board is 21 not an enforcer and not really, shouldn't even 22 request a flood damage prevention ordinance 23 provisions. It's not within their purview. It is, 24 you know, whether the planning board granted a 25 variance for a structure, it is irrelevant for your</p>
<p>7</p> <p>1 consideration or your -- and vice versa. If you 2 grant a variance for a structure from the flood 3 plane, it's really irrelevant for the planning 4 board's consideration.</p> <p>5 So you, based on those reasons, so 6 you understand, John, what the commissioners had to 7 discuss and it's kind of a conversation we have 8 frequently, that the expansion of a nonconforming 9 structure however minute is contrary to, was 10 contrary to the often the reasons behind the flood 11 planning -- the flood plane regulations. You 12 should know that, you know, we always talked about 13 that process of getting it to the CRS program. As 14 of the 16th, we were accepted into the program and 15 now the Borough of Monmouth Beach will be fighting 16 for those cost savings. So we have now essentially 17 what FEMA has said is that you have over the course 18 of the last several years demonstrated compliance 19 with and proper enforcement and interpretation of 20 your flood ordinance and that they will now, they 21 have six months to conduct their final audit of the 22 actions of the community related to construction 23 issues and variance issues; and it will be an 24 argument over whether we are on certain levels. It 25 will be an argument whether we're getting 10</p>	<p>8</p> <p>1 percent, between 10 and 30 percent presuming 2 technically it is still a final audit. But when 3 they send you a letter saying that you are 4 authorized to apply for the audit of the CRS 5 program you're in; now it's just a matter of how 6 much we're able to save the community. We were 7 expecting that letter for the last three months; we 8 finally got it. It was after their decision so we 9 didn't really talk about that letter but we talked, 10 the commissioners talked about that process.</p> <p>11 You are absolutely entitled to make 12 your pitch and the commissioners will always 13 listen, they always listen; it's a small town. But 14 I just want to make sure that you know your 15 expectation because this is very rare, you know, 16 this is not a full blown planning board hearing. 17 It's all really about concentrating on why we would 18 grant a variance from a flood plain regulation as 19 it relates to all those purposes of the flood 20 damage prevention ordinance.</p> <p>21 MR. TATULLI: Right. 22 MR. COLLINS: So they know that this 23 is a, they know it's 120 square foot addition -- 24 A VOICE: 134. 25 MR. COLLINS: -- to expand a kitchen</p>

Sheet 3 (9-12)

<p>1 and an upstairs room. They're aware of that in 2 your letter. You know, we talked about your 3 letter. Your letter was exactly the information 4 that they needed but you can absolutely make, you 5 know, make a pitch. Create your record. I'll 6 swear anybody in that you're going to have testify 7 so we can make that neat. 8 MR. TATULLI: Yes. 9 MR. COLLINS: This young gentlemen 10 behind you I know very well, so we'll if you can -- 11 A VOICE: Me? 12 MR. TATULLI: We'll start with -- 13 I'll get started in a second but sure we'll swear 14 in Mr. DiLorenzo. This is Chester DiLorenzo Mid 15 State Engineering. He is our professional expert 16 engineer and planner. 17 A VOICE: And surveyor. 18 19 CHESTER DILorenZO, sworn. 20 21 MR. COLLINS: Could you state your 22 name and spell your last name. 23 THE WITNESS: My name is Chester 24 DiLorenzo, D-i-L-o-r-e-n-z-o. 25 MR. COLLINS: Just for purposes of</p>	9	<p>1 the record like a planning board, I would suggest 2 to the commissioners, I know Mr. DiLorenzo. He is 3 a qualified professional engineer, professional 4 planner. I ask you to accept his credentials and 5 stipulate to them. 6 MR. TATULLI: Thank you, Mr. Collins. 7 Thank you, Commissioners, for hearing us tonight. 8 As Mr. Collins said very succinctly, we're here 9 because of an issue with the elevation 10 requirements. We did submit a letter previously 11 and the reason we're really here tonight is because 12 of the history of how these issues have been 13 treated. I have which I'll submit for exhibits for 14 the record here, 12 to 15 similar circumstances 15 where this commission granted variations or 16 exceptions if you will to the strict application of 17 the flood prevention ordinance, Section 22 under 18 the borough code. So what we're asking this 19 commission to do, and we brought our engineer and 20 architect here because we, if there were any issues 21 or questions, we wanted to be here when the 22 commissioners first considered this issue but since 23 there was an issue with what we submitted and 24 technically I guess a formal denial of our request, 25 we are here to ask you to reconsider that decision</p>	10
<p>1 and the decision of the code enforcement, the 2 construction official, Mr. Clare to deny our 3 building permit. That's really what we got to. As 4 Mr. Collins, and we'll get to my engineer in a 5 second, just to bring us to up to speed where we're 6 at, we did get a resolution; I represented the 7 clients. Mr. Mitchell, I believe you were present 8 at the planning board in March, almost a year ago, 9 March 22, 2016, I have the resolution here which 10 was memorialized in April 2016, which, Mr. Collins, 11 I would like to submit as A-1 or P-1 or whatever 12 you want to designate. 13 MR. COLLINS: That is what, a 14 planning board resolution? 15 MR. TATULLI: Yes, that is from March 16 22, 2016. And this is A-1, Joyce, for the record. 17 MS. ESCALANTE: Thank you. 18 Whereupon a resolution dated 3/22/16, 19 is received and marked as A-1 for identification.) 20 MR. TATULLI: So we presented an 21 application to build an addition, approximately a 22 130 feet bump out, fi you will, of the kitchen and 23 the upstairs bedroom which the planning board 24 granted the variances. They were both variances. 25 There was also preexisting nonconforming use</p>	11	<p>1 variances that were required so there was some 2 technical aspects to it despite the de minimus 3 size, if you will. But the planning board reviewed 4 everything. In fact, so did the planning board 5 engineer and they approved the construction of the 6 addition. 7 So at that point, you know, we were 8 under the, we had the understanding that the 9 largest part of the process, if you will, has been 10 overcome. At this point there are compliance 11 issues with obviously local construction code 12 issues and Miss Heard in the engineer letter has 13 outside agency government approvals that we have to 14 comply with. We complied with the Two River Water 15 Reclamation Authority approvals. The New Jersey 16 D.E.P. sent us the waiver; we applied and got that 17 waiver. We got the waiver from the Freehold Soil 18 Conservation District. So we went through this 19 entire process and we get really to the last step, 20 if you will, to stick the shovel in the ground 21 basically. We have our contractor and the local, 22 the town construction official says, nope, no. 23 That's not, you're not in compliance with the 24 elevation requirements. And so this I would like 25 to submit as A-2. This is the letter from October</p>	12

<p style="text-align: right;">13</p> <p>1 31, 2016 of Don Clare which is the formal denial of 2 our request for building permits. 3 (Whereupon a letter dated 10/31/16, 4 is received and marked as A-2 for identification.) 5 MR. TATULLI: Let's see if I have a 6 copy. And essentially he says that it's not in 7 compliance with the flood prevention ordinance, 8 that there's the -- well, he interprets -- and 9 that's what Mr. DiLorenzo is here for because he 10 interpreted it as a ten foot elevation when 11 actually it's nine foot elevation. So the first 12 part of why we're here is because under the flood 13 prevention ordinance, we're here to appeal the 14 error in what we're calling the error in the 15 decision or determination by Mr. Clare to classify 16 this as a 10 foot elevation. He's taking a more 17 restrict, and Mr. DiLorenzo is going to talk more 18 about this, a more strict interpretation because 19 the flood plane line, if you will, cuts right 20 through our property. And so there's part of it is 21 nine foot elevation, part of it is ten foot 22 elevation but the home is in the nine foot 23 elevation and the addition that we're proposing to 24 do is also in the nine foot elevation. So he's 25 going to explain more to you about that, why that</p>	<p style="text-align: right;">14</p> <p>1 interpretation to apply the 10 foot standard is not 2 correct and that's pursuant to the ordinance 3 requirements. That's really why we're appealing. 4 And we're also then asking applying the nine foot 5 elevation standard in exception to the three foot 6 free board application because based on the 7 construction of this de minimus addition, if you 8 will, there's not going to be any harm done. 9 Everything is going to be consistent. This is a 10 small very small project we're working on and 11 really more importantly, again why we're here is 12 because there are, I have and I'm going to submit 13 as exhibits 15 other instances where this Board of 14 Commissioners, this governing body has approved 15 larger projects, larger new construction and other 16 things. So all we're asking is for this 17 commissioners, you, Mr. Mitchell, Mr. Cunniff, to 18 treat us like them. That's really why we don't, 19 why we're so confused and why we really were 20 compelled to be here tonight. And my clients have 21 been through a lot and they're going to tell you 22 they spent a lot of money. They went through this 23 long process and now to be faced with this issue at 24 the end and say, you did all this work but now you 25 can't build it, it's really not fair to them. And</p>
<p style="text-align: right;">15</p> <p>1 as great, you know, residents of this town who 2 really are trying to improve the value of their 3 home and, you know, they've tried to buy the vacant 4 lot. They take care of the vacant lot even though 5 it's the borough's property. Mr. Selaus mows the 6 lawn literally of the lot he tried to buy which is 7 vacant borough property and there are other issues 8 why the borough won't allow them but they've 9 actually, when it came up to the planning board, we 10 even testified that they tried to actually buy that 11 lot to make it easier for the borough and things 12 like that. But for other reasons, those lots are 13 not for sale. Nevertheless, they still take care 14 of that lot. And they're very good people and good 15 citizens and again, we're asking you to treat this 16 like the 15 other instances where these very 17 similar applications have been granted. So 18 without, without further ado, Mr. DiLorenzo can 19 tell you -- 20 MR. COLLINS: Would you mind, John, 21 because I know you know, this meeting is over at 22 7:00 because the planning board meeting starts. I 23 wasn't aware that you were challenging the flood 24 elevation determination, and I apologize if it was 25 in your letter but that's something we would have</p>	<p style="text-align: right;">16</p> <p>1 needed Mr. Clare here for, if you're challenging 2 his interpretation and I wasn't aware of that. I 3 thought you were just challenging his decision. 4 But if you'll give me those resolutions, I'll mark 5 them now as Mr. DiLorenzo talks, and that will give 6 me an opportunity to look at them. Because I write 7 all the resolutions, so you're say that 15 8 resolutions? 9 MR. TATULLI: So this is A-3. This 10 is, A-3 would be the resolutions from the March 11, 11 2014, Miss Escalante, and there are six 12 resolutions. 13 MR. COLLINS: Why don't we, why don't 14 I mark them as you go along so we can -- 15 MR. TATULLI: And here's copies for 16 you. And then we have the June 11, 2013 meeting 17 and there is five resolutions in this set. Then I 18 have the January 26, 2016 meeting and there is one 19 resolution in there. And that one is, I think -- 20 MR. COLLINS: We'll put this on the 21 record. I want you to be able to get as much in as 22 you possibly can before we have to stop so -- 23 MR. TATULLI: So that's the next, one 24 A-4 or 5. That's January 2016 and this one is June 25 27, 2013, and there are two.</p>

Sheet 5 (17-20)

<p style="text-align: right;">17</p> <p>1 MR. COLLINS: I promise you we will 2 go back over these, John. I just want to try to -- 3 MR. TATULLI: Yes. There's three 4 resolutions in here approving similar requests. 5 MR. COLLINS: Sounds good. 6 MR. TATULLI: And then you know what? 7 For the record we'll mark this next one, Mr. 8 Collins? This is my client's flood elevation 9 certificate which shows a nine foot elevation in 10 their certificate so you can mark that A-6 or 7? 11 MR. COLLINS: A-7 will be the 12 elevation certificate. Is this based on the ABFE'S 13 that are required in here or is it based upon 14 preliminary working maps? 15 THE WITNESS: Both. That's based 16 upon the realtor. 17 MR. COLLINS: This is based on the 18 existing obligation? 19 THE WITNESS: That's correct. 20 MR. COLLINS: Which or not related to 21 the ABFE or -- 22 THE WITNESS: This is the ABFE which 23 is much more beneficial to your client. 24 MR. COLLINS: Okay. 25 MR. TATULLI: And that's the flood</p>	<p style="text-align: right;">18</p> <p>1 elevation and that's that nine foot elevation and I 2 think that's all I have. Mr. DiLorenzo has his and 3 I'll let him take it from here. 4 (Whereupon a series of resolutions 5 are received and marked as A-3 thru A-7 for 6 identification.) 7 THE WITNESS: If it's okay I'll speak 8 quickly because we have a lot to cover and not a 9 lot of time to do it. And as Mr. Collins said, my 10 name is Chester DiLorenzo. I'm an engineer, 11 surveyor and planner in New Jersey. Got my first 12 license in '83, surveying '84. So I've been here a 13 long time. I testified in Monmouth Beach many 14 times. And I come to hearings like this once a 15 week. I also have an eLOMA and eLOMA password. I 16 spent a lot of time dealing with the government, 17 dealing with the letters of interpretation, map 18 amendments. To date I've had about 12 map 19 amendments. I don't like to go through the process 20 because of the time involved. It takes about a 21 year. Most people don't have the time they don't 22 want to go through it. So I know the process quite 23 well. The applicant had the plot plans done. The 24 property sits at the corner of Sailor and Seaview. 25 The elevation is nine, of course being a good</p>
<p style="text-align: right;">19</p> <p>1 engineer and surveyor, I don't trust anybody and I 2 did it myself and it came out to 9.08. So Tom did 3 a pretty good job if I did a pretty good job. So 4 we both agreed to the same numbers. We checked it 5 out. 6 The flood and maps, the firm maps 7 that are blown up here, the existing ones show the 8 ten contour on the bigger property and this is the 9 property. Here's a smaller version. Again, the 10 10 contour, the 10 elevation comes through the 11 property. And the reason I'm pointing this out, 12 this map is dated 2009. In this map it shows all 13 of the beach area, elevations more or less 11. 14 That's in the B zone. It shows the B zone on the 15 other side of the bay, elevation ten. It shows us 16 at elevation nine with a ten coming through the 17 property. Nine on one site, ten on the other. 18 It's, it doesn't make a whole lot of sense. 19 Now, in surveying just like in law, 20 you look for evidence. So we looked at this 21 evidence. We scratched out head and say it's not 22 really great. I know Miss Heard can tell you these 23 are done through a computer program, a HEC-RAS 24 program which will determine how much water will 25 rise in a flood drive and how much discharge we</p>	<p style="text-align: right;">20</p> <p>1 have. So there is no such thing as a line right 2 here because water doesn't make a complete step 3 like that except in Alaska where the border comes 4 in. So it's basically based on an average, around 5 elevation ten there, around elevation nine here. 6 So I looked at that and said okay, that's pretty 7 good evidence. It's like nine; it's pretty more 8 realistic than ten. Then I looked ahead and said, 9 okay, what else can I dig up from FEMA that is 10 going to give me a benefit and then I found the 11 maps that hadn't been adopted yet. These are dated 12 January 2014, so these have been kicking around for 13 three years and these are showing the entire area 14 all over Sailor and Seaview elevation eight. So 15 the latest revision of the maps when they adopt 16 them is going to reduce the flood elevation from 17 the nine area and the ten area of all of the rest 18 of the area in this section of the borough to 19 elevation eight. So somewhere the computer program 20 got a little sharper, the topography is better, the 21 program got a little better and okay, we've done a 22 run here and we found out actually there is a foot 23 to two feet lower from what we found. 24 Also, you should be aware that they 25 found everything on the seaward side of the seawall</p>

<p>1 goes over the elevation 20. So I think it's a much 2 more accurate estimation where the flood waters are 3 going to be because they know the water is on the 4 water side of the seawalls are going to be high. 5 They know the water on the land side where the 6 properties are with good drainage are going to be 7 even lower. So it's a much better approximation. 8 So effectively I looked at this 9 evidence and Mr. Tatulli asked me what I felt and I 10 said, well, I feel this. Although I would love to 11 have the elevation eight, the elevation nine with a 12 134, I actually think in the architect is 136 13 square feet would be a de minimus waiver, variance, 14 however you phrase it because that's in a deck area 15 existing. So it's not a naked, virgin area, lawn 16 area, whatever you want to call it where you're 17 going to cut a hole and we're going to put the 18 kitchen there. It's going to be in the sale 19 elevation dwelling for continuity. Again, the 20 architect can tell you that. And the clients going 21 to get flood insurance for it and in the not too 22 distance future if they adopt the 2014 map, the 23 flood insurance will be cheaper because the 24 elevations are going for elevation nine to 25 elevation eight. So you can save some money in</p>	21	<p>1 that regard. 2 MR. COLLINS: Can I go back, Mr. 3 DiLorenzo? Understanding your client is ABFE, are 4 you now saying that you would be a compliant 5 structure under the preliminary working maps and 6 I'm sorry because I didn't hear you. 7 THE WITNESS: I would still be 8 requesting your three foot of free board. I have 9 the elevation 12, but I'm not. The elevation nine. 10 Under the, under the preliminary maps it would be 11 elevation eight so for a normal FEMA application 12 for flood insurance, my insurance company, I would 13 be fine but for the Borough of Monmouth Beach, I 14 would still need to request a waiver to tell you 15 that I'm below your three foot of free board. And 16 by the way, my personal opinion, it's not a bad 17 ordinance but it's different from most of the guys 18 around here and you're closer to the ocean. So we 19 would still be here requesting that either way. 20 MR. COLLINS: All right. 21 THE WITNESS: I mean realistically, I 22 don't want to take up a lot more of your time, but 23 I'm just saying that I believe with the 136 square 24 feet at the same elevation which is at the flood 25 elevation in our opinion, that is a de minimus</p>	22
<p>1 request for a waiver. And I do understand the 2 circumstances with FEMA, and I will admit the last 3 one I got was submitted January of '16, and we got 4 the documentation saying you're right December of 5 '16. So it's not like it's a fast or easy process 6 when you deal with the Feds. But you know that 7 better than I do. 8 MR. COLLINS: You have no idea. 9 THE WITNESS: I know exactly what 10 you're into but I shouldn't say that on the record. 11 Mr. Tatulli, if you have anymore questions I just 12 quickly, that's where I think we are. 13 MR. COLLINS: Just two things, John. 14 I want you to be able to look at this just so you 15 understand this. You got me a little bit concerned 16 because I am the one that writes these resolutions. 17 In the resolutions that you presented and the 18 resolutions of the commissioners have done? 19 MR. TATULLI: Right. 20 MR. COLLINS: In A-3 and maybe Mr. 21 DiLorenzo can explain it, remember the days when 22 initially there was a coastal A zone? 23 THE WITNESS: Mm-hm. 24 MR. COLLINS: And this is really no 25 longer part of the application. So in under, on</p>	23	<p>1 A-3, you have six resolutions, four of them were 2 the, are construction officials requiring that 3 coastal A zone use V zone construction 4 requirements. And we new, the board knew that 5 coastal A, the commissioners rather knew coastal A 6 was going to go away and it wasn't mandatory back 7 then that it V zone construction. So four of those 8 resolutions are saying that the coastal A is not 9 required to use V zone construction. The other two 10 resolutions from there are properties that were in 11 a V zone but the preliminary working mappings were 12 showing them only going in to a A zone which is a 13 totally different, I'm sure Mr. DiLorenzo knows, 14 construction. A-4 has four resolutions, all of 15 which are coastal a V zone construction standards 16 variances. A-5, the property's partial V and 17 partial A, and we waived the V zone construction 18 standards. And A-6 are all coastal A zones. So I 19 just want to be sure, John, that I know you 20 represented but there has been no variance in a A 21 zone that you've presented, and I'm not going to 22 testify, but that you've presented that is a 23 deviation from the free board requirement. That 24 was just because it's a very important issue. 25 MR. TATULLI: Why wouldn't we be</p>	24

Sheet 7 (25-28)

<p>1 entitled to that based on this with our 2 application? 3 THE WITNESS: I'm indicating that in 4 that A zone request that the evidence is showing 5 that the real flood elevation is significantly 6 lower than what we're asking for. In the V zone, 7 the flood elevation is to the bottom of the joist. 8 In our case we're at elevation nine and if it 9 changes out to elevation eight, then we will be at 10 the bottom of the joist. 11 MR. COLLINS: No, no, no. We're not 12 talking -- this is not a V zone case. What I'm 13 saying is Mr. Tatulli indicated to the 14 commissioners that we had granted 15 variances from 15 the flood plan. None of those variances presented 16 had anything to do with a, someone who has a 17 preexisting nonconforming structure putting on an 18 addition that continued to violate the free board 19 requirement. Do you understand? 20 THE WITNESS: Yes. 21 MR. COLLINS: All right. That they 22 were not these applications. So it's not like 23 there's 15 people that got treated saying yes, you 24 can being violate that standard and now we're saying 25 on the 16th, they previously said no. I just want</p>	<p>1 to make that clear. 2 MR. TATULLI: But the violation, Mr. 3 DiLorenzo, that Mr. Collins -- how much of a 4 violation are we committing here? 5 THE WITNESS: Well, we're -- 6 MR. COLLINS: No, no. I don't want 7 to say it's a violation; that's a bad word. 8 MR. TATULLI: Exactly, but you keep 9 saying it. 10 MR. COLLINS: It's a deviation. 11 MR. TATULLI: You're making us sound 12 really bad. 13 MR. COLLINS: A deviation from the 14 requirement. 15 THE WITNESS: We're right at the 16 flood elevation, so we're looking for a three foot 17 deviation from the requirement in a similar matter 18 to the rest of the dwelling, and I don't mean to 19 testify for my clients' observations but they had 20 very de minimus damage under Sandy. So it's either 21 God smiled upon them or the maps aren't entirely 22 accurate. That's really where I'm going with it. 23 MR. COLLINS: I understand the 24 argument. That's the argument. 25 THE WITNESS: Exactly.</p>
<p>1 MR. TATULLI: All right. Nothing 2 else? 3 THE WITNESS: Nothing for me, sir. 4 Q We're going to have Jeff Schneider 5 come up. 6 THE WITNESS: I imagine you're going 7 to want to keep this, Mr. Collins? 8 (Whereupon the witness is excused.) 9 MR. COLLINS: It's, John, it was 10 attached to your letter and -- 11 (Whereupon a discussion is held off 12 the record.) 13 MR. COLLINS: Why don't we mark that 14 as A-8, and put them altogether, DiLorenzo 15 exhibits; how does that sound? Is that okay, Mr. 16 Tatulli? 17 MR. TATULLI: Yes. 18 MR. COLLINS: Do you know what they 19 are? Yes, we'll take them. Can you take them off 20 the board and put them -- 21 (Whereupon a set of maps is received 22 and marked as A-8 for identification.) 23 24 JEFFREY SCHNEIDER, sworn. 25</p>	<p>1 MR. COLLINS: Please state your name 2 spelling your last name for the record. 3 THE WITNESS: Yes. My name is 4 Jeffrey Schneider, S-c-h-n-e-i-d-e-r. 5 MR. COLLINS: And do you have any 6 initials after your name like AIA or RA. 7 THE WITNESS: AIA. 8 MR. COLLINS: Okay. Can you just 9 give us the benefit of your credentials, licenses 10 you hold and all that? 11 THE WITNESS: I'm an architect, 12 licensed. 13 MR. COLLINS: The commissioner 14 haven't seen you before? Have you seen him? 15 THE WITNESS: I did appear before the 16 planning board. 17 MR. MITCHELL: Yeah, exactly. He's 18 been in front of the planning board. I don't have 19 any, you know, problem with your testimony. 20 MR. COLLINS: You got it. Let's get 21 to the nuts and bolts. 22 THE WITNESS: Okay. Well, I 23 think I'm here to testify about, you know, the 24 architecture, the design of the building and the 25 fact, the raising, you know, forcing up three or</p>

<p>1 four feet would not work in this particular design 2 because we're simply extending an existing room and 3 we can't have a bunch of steps in the middle of the 4 room. And it also seems like a, you know, 5 burdensome requirement to raise the entire house 6 for such a small tiny addition. 7 Regarding, you know, I really can 8 testify to the architectural portion of the project 9 but -- 10 MR. COLLINS: Why don't you explain 11 to the commissioners the interior of the rooms, 12 what the rooms are that are going to be expanded 13 and -- 14 THE WITNESS: Sure. 15 MR. COLLINS: -- the purposes of the 16 expansion. And once you give them that then we'll 17 have a complete record. 18 THE WITNESS: Yes. The clients 19 purchased the house and it had some peculiar things 20 within it, its functionality. The dining area was 21 not very large and the kitchen the way the spaces 22 were arranged were not in accordance with my 23 client's lifestyle. So they've asked me to expand 24 the dining area, open it into the kitchen so it's 25 more of a contemporary, you know, situation at a</p>	29	<p>1 house and so they could enjoy their family and so 2 on. So we were simply putting a small bump out, 3 expanding the dining area so they can get a larger 4 table in the room. And to put a, you know, a 5 series of steps in the middle of that room simply 6 wouldn't work because the table kind of goes into 7 both sides of that space. 8 MR. COLLINS: Mr. Schneider, when you 9 designed the house, did you not consider the flood, 10 our flood plane regulation ordinance as it relates 11 to the finished floor elevation, the impact on the 12 insurance for your client and the ability to get 13 construction permits? 14 THE WITNESS: Right. Well, when I 15 received a survey of the property, it didn't 16 indicate what the flood plane was and I didn't 17 really work with a surveyor that does a thorough 18 investigation. At the very end as I was going 19 through some things, I did enter onto my ABFE 20 website and came up with an elevation of nine and I 21 thought we were fine, but really had no indication 22 not being very familiar with the area that they 23 were quite frankly in a flood area. So it was an 24 unfortunate, you know, that it got to the point 25 that it did but --</p>	30
<p>1 MR. COLLINS: Well, yeah, it's 2 unfortunate we're here at the last final step and 3 Monmouth Beach is Venice on the New Jersey Shore as 4 it relates to flooding. All right. I just wanted 5 to no if you considered it in your design. 6 MR. MITCHELL: You did not design the 7 home originally? 8 THE WITNESS: No, I did didn't. 9 MR. MITCHELL: Just the addition. 10 THE WITNESS: Just the addition; 11 that's right. 12 MR. MITCHELL: Okay. 13 MR. TATULLI: That's all we have. I 14 just want my clients to speak briefly. 15 (Whereupon the witness is excused.) 16 17 RICHARD SELAUS, sworn. 18 JOANNE SELAUS, sworn. 19 MR. COLLINS: Could you state your 20 name spelling your last name for the record. 21 THE WITNESS: Yes, Richard Selaus, 22 S-e-l-a-u-s. 23 MRS. SELAUS: And Joanne, same last 24 name. 25 MR. COLLINS: Okay. Make sure you</p>	31	<p>1 speak loudly so the court reporter can hear you. 2 THE WITNESS: So we moved down here 3 three years ago or we actually put a bid in right 4 before the storm. We settled on the house in 5 January. The house is great; the location's great. 6 We have three kids. They have kids. The house had 7 the right amount of bathrooms, right amount of 8 bedrooms. It was perfect for the little kids and 9 the grandkids that are starting to rack up. 10 After living there for a year or two 11 the kitchen is a little cramped and you can't be 12 outside in the winter. And all we want to do is 13 just move this out, expand the kids' bedroom 14 upstairs so as we're racking up grandkids we can 15 have more space for them. We had no concept of 16 flood elevations or anything else like that. This 17 is -- 18 MR. CUNNIFF: Where did you move 19 from? 20 THE WITNESS: We were in Hunterdon 21 County. We were up in like Pottersville. And we 22 moved down and then we had no concept on any of 23 this stuff. All we wanted to do is bump out the 24 kitchen a little and we wanted to do a bunch of 25 other stuff to the rest of the house to make it</p>	32

Sheet 9 (33-36)

<p style="text-align: right;">33</p> <p>1 look nice. We are right beside that piece of 2 property that the town owns that we take care of. 3 We're trying to rehab it, plant seed, take care of 4 the grass, you know, we get to use it a little bit. 5 It's nice. I mean, it's a very nice addition to 6 our property. We have made a lot of inquiries 7 during this stuff trying to educate ourselves and 8 trying to understand what's going on. 9 One of the things that we have done 10 is that we looked at our insurance company 11 certificates and they say that our elevation is 12 nine feet. We called another insurance company and 13 asked them what they would charge us for flood 14 insurance and they came back right away with 15 exactly the same quote at that nine foot level. So 16 again, I don't know all the rules and regulations. 17 It seems a little, how can we have a ten foot if 18 the guys who could squeeze more money out of me say 19 if we were in a ten foots says we're in a nine foot 20 assuming that the insurance companies are going to 21 charge you whatever they can charge you. So we 22 look at the nine feet level. We're here asking for 23 this variance of this from the three foot free 24 board it would, it would make the house come 25 together. We could, we could -- you know, it would</p>	<p style="text-align: right;">34</p> <p>1 fit our family and our extended family really 2 nicely. We're going through the process because 3 you know, that's the rules. You know, we ask for 4 your consideration. 5 MR. CUNNIFF: Do we need to or should 6 we, should we have Don here to be -- 7 MR. COLLINS: Well, I think, I mean 8 my, my personal opinion and just so you understand, 9 I know you're new to this area and you're not 10 familiar with the flood and, you know, we 11 unfortunately have been come very expertise in that 12 in that 40 percent of our community their 13 properties had been damaged by Sandy. And having 14 struggled to get to this point on the program for 15 all the -- you heard me talk about \$1.3 million in 16 flood insurance premiums being paid annually. One 17 of the requirements or one of the things that we 18 had -- not we; I always say we; that the 19 commissioners had decided in their interactions 20 with both their professionals and the professionals 21 with FEMA was that 3 foot free board was an 22 essential requirement to try to get Monmouth Beach 23 back on a trajectory where people would not be 24 blown out. Your flood insurance is going to a 25 fully actualized program not subsidized by the</p>
<p style="text-align: right;">35</p> <p>1 Federal Government. Those who are noncompliant 2 with the map will be paying in Monmouth Beach, 3 there will be some properties that will be paying 4 over \$30,000 a year in flood insurance because of 5 their location and their elevation. It's a forcing 6 the rise in everybody's homes. You understand that 7 flood insurance can only be quoted on the 8 applicable maps which are maps that everybody knows 9 are not going to be the maps in probably about a 10 year or 18 months. I just want to make that clear, 11 clarify it but in about 12 to 18 months those maps 12 are going to be adopted. It's not likely they will 13 change. But in this context, I know it's 14 important, I know they're at the end of the line. 15 That's why the commissioners said you want to come 16 in, get right in, make a pitch, they will think 17 about it. But I think that if the construction 18 official has determined a ten foot elevation and 19 you know, Mr. DiLorenzo disagrees, I think we need 20 the construction official on no matter where this 21 agreement goes or where the decision goes, we need 22 a finding of what your elevation will be before 23 they adopt the preliminary maps. Doesn't mean it's 24 binding later but I think that's a point that has 25 to be determined. Mr. Clare has to explain why</p>	<p style="text-align: right;">36</p> <p>1 he's doing this elevation if that elevation doesn't 2 touch the property. So I know you're at the end 3 but would I recommend that Don needs to be here to 4 explain that. 5 MR. CUNNIFF: Can we, we meet once a 6 month on the last Tuesday, whatever. Can we 7 entertain a special meeting, you know, where Don -- 8 so that we're not up against any planning board 9 meetings? 10 MR. COLLINS: How do you like that, 11 people? 12 MR. TATULLI: Thank you, Mr. Cunniff. 13 Thank you. 14 MR. COLLINS: What I would suggest is 15 you have to ask your court reporter to get you an 16 expedited transcript. This way, just so you know, 17 this way you will not only, Don Clare can see it 18 but remember you have only two commissioners here 19 which I told you about. 20 MR. TATULLI: Right. 21 MR. COLLINS: So depending upon when 22 the mayor gets back if the special meeting occurs 23 after the mayor gets back, she would be entitled to 24 read the transcript. I'm not saying that she would 25 have the time.</p>

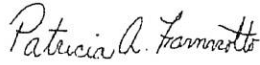
<p>1 MR. CUNNIFF: So here's the sticky 2 wicket. The mayor comes back I think on the 8th 3 next week. 4 MR. MITCHELL: 8th or 9th. 5 MR. CUNNIFF: He's going to be away. 6 Where are you going? 7 MR. MITCHELL: I'm -- doesn't matter 8 where I'm going. I'm going, I'll be away until the 9 18th. I return on Monday, the 18th. 10 MR. CUNNIFF: The next scheduled 11 borough meeting is the 28th. So that's only a ten 12 days head start. But it's at least, you know, ten 13 days. 14 MR. MITCHELL: It will save ten days 15 and again -- 16 MR. CUNNIFF: Like I said, does Jeff 17 have to -- 18 MR. COLLINS: Well I think if you're 19 going to -- certainly it's up to them if they want 20 to try to push a week. We have spoken to the 21 mayor, everyone's spoken to her. She's still 22 working over in Hawaii but we want to make sure 23 she's available. Why don't we do this. Why don't 24 we try to figure out the best available date. You 25 have to decide with your clients whether you want</p>	<p>37</p> <p>1 two or three people here; okay? And we'll honor 2 that request. Because, you know, it's odd numbers 3 is always better when, when you're debating things. 4 MR. TATULLI: Right. 5 MR. COLLINS: But it's up to you and 6 then I'll coordinate or Joyce will coordinate when 7 we can get in touch with the mayor and if you say 8 you want three, you have to wait until the 18th and 9 we'll see what date we can get going based on their 10 personal schedules, they have jobs and -- 11 THE WITNESS: If the difference is 12 ten days and you don't have to jump through hoops. 13 MR. COLLINS: This is what they do, 14 though. 15 THE WITNESS: It's very nice of you 16 to offer, but again, if you say you can wait until 17 28th and your normal scheduling meeting -- 18 MR. COLLINS: The only problem with 19 that is the meeting starts at 6, and we go through 20 and we have the planning board, another meeting 21 that starts at 7. So this way you're not 22 constrained if we get into a philosophical debate 23 or Don starts talking because he loves to talk 24 about flood planning stuff. You're not -- 25 MR. MITCHELL: And that's also,</p> <p>38</p>
<p>1 there's also Don's schedule. 2 MR. TATULLI: Well, I would hope that 3 he could indulge us with his time. 4 MR. COLLINS: And he has another job. 5 MR. TATULLI: But still. 6 MR. CUNNIFF: Are you available on 7 the 18th? 8 MR. COLLINS: Why don't we -- we'll 9 coordinate. 10 MR. TATULLI: Yes. 11 MR. COLLINS: Is that okay, Jeff? 12 We'll coordinate with you. We don't have to worry 13 about it tonight. We'll coordinate with you, the 14 mayor, Don Clare and Mr. Tatulli and try to get the 15 best date. You've indicated a willingness to do 16 it. 17 MR. TATULLI: Thank you. 18 MR. COLLINS: Fair? 19 MR. TATULLI: Yes, sir. 20 MR. MITCHELL: So that Sunday, from 21 the 20th on I'm -- 22 MR. COLLINS: We don't meet on 23 Sundays. Well, you guys sometimes do but I don't 24 have to come. You'll meet any day but I don't have 25 to come on Sundays; right?</p> <p>39</p>	<p>1 MR. CUNNIFF: Yes. 2 MR. COLLINS: So we will be, John and 3 I know each other. We'll be in touch. 4 MR. TATULLI: Thank you. 5 (Whereupon the hearing is adjourned.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>40</p>

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CERTIFICATE

I, Patricia Fornarotto, a certified Shorthand reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the hearing taken stenographically by me.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which the hearing is taken and that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.



Patricia Fornarotto
Certified Shorthand Reporter

License No. XIO1814
Dated: March 7, 2016

Administrator's Report: Ms. Wilson had nothing to report

Borough Attorney's Report: Mr. Collins had nothing to report

Commissioner Cunniff moved, seconded by Commissioner Mitchell, that the meeting be opened to the public.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3- Nay -0-.

Wayne Baldacino, Ocean Avenue, commented on the road work that was going on in front of the Cultural Center. He said the area was a mess and he felt it was a dangerous situation for pedestrians since there was no shoulder on the road in that area due to the work. He asked if there was a proposed completion date.

Bonnie Heard, Borough Engineer, explained that it was a Department of Transportation (DOT) project and the DOT was putting chambers under the highway to provide for easier access to their pumps. She said they were doing the work now to avoid the heavy Summer traffic.

There being no further comments or questions from the public,

Commissioner Cunniff moved, seconded by Commissioner Mitchell that the meeting be closed.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3- Nay -0-.

There being no further business,

Commissioner Cunniff moved, seconded by Commissioner Mitchell that the meeting be adjourned.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3- Nay -0-.

Mayor Howard

Commissioner Cunniff

Commissioner Mitchell

ATTEST:

Joyce L. Escalante, RMC
Borough Clerk
February 28, 2017