BOROUGH OF SPRING LAKE HEIGHTS
BOARD OF ADJUSTMENT MINUTES MAY 26, 2016

The meeting was called to order with a salute to the flag and a moment of silence by Chairman Pearsall at 7:30p.m

Roll Call:

Brian Brendle - present
Raymond Miller - present
Owen Quinn - present
John Tangeman - present
Steven Weiss - present
Andrew Zelenak - present
Chairman Dennis Pearsall - present

Alternate #1 - Thomas Martin - absent
Alternate #2 – Susan Lalji - present

Meeting Notice: This meeting is called pursuant to the provisions of the open public meeting law. Notice of this meeting was included in a list of meetings sent to the Coast Star and Asbury Park Press, posted on the bulletin board in the Municipal building and on the borough web-site.

Executive Session: Resolution #2016-10 – Litigation; Monmouth Montessori Academy

Motion was made by Mr. Brendle to approve Resolution 2016-10; seconded by Mr. Zelenak. Roll call taken:

AYES: Mr. Brendle, Mr. Miller, Mr. Quinn, Mr. Tangeman, Mr. Weiss, Mr. Zelenak, Ms. Lalji and Chairman Pearsall
NAYS: None
ABSTAIN: None

Attorney Kitrick explained that he would be going to court on Friday, May 27th to defend the board's decision on the Monmouth Montessori Application. He explained that Attorney John Brennan had filed a summary judgement due to time constraints, his applicant needed a swift decision allowing for timely notification to their students. Mr. Kitrick had filed his brief filing for dismissal due to Montessori not exhausting all remedies available to them, ie: use variance. Mr. Kitrick will update members when the Judge's decision is handed down.
The executive session was closed on a motion by Mr. Brendle, seconded by Mr. Weiss; all ayes.

Approval of Minutes: April 28, 2016 Meeting

Motion was made by Mr. Brendle to approve the minutes of April 28, 2016; seconded by Mr. Tangeman. Roll call taken:

AYES: Mr. Brendle, Mr. Quinn, Mr. Tangeman, Mr. Weiss, Mr. Zelenak, Ms. Lalji and Chairman Pearsall
NAYS: None
ABSTAIN: Mr. Miller

Correspondence: None

Old Business: Resolution 2016-11
Richard Phipps Application# Z2016-04
Variance for Height & Size of Accessory Building
Block 30 Lot 12
816 Ocean Road

Motion was made by Mr. Brendle to approve Resolution 2016-11; seconded by Mr. Tangeman. Roll call taken:

AYES: Mr. Brendle, Mr. Miller, Mr. Quinn, Mr. Tangeman, Mr. Weiss, Mr. Zelenak, Ms. Lalji and Chairman Pearsall
NAYS: None
ABSTAIN: None

New Business: Z2016-03
810 Highway 71, LLC
810 Highway 71
Block 69 Lot 19
Outdoor Patio

The following were sworn by Attorney Mark Kitrick: Mr. Cornelius Durkin, Mr. Sullivan, Mr. Ray Carpenter, Mr. Christopher Rice and Mr. Lobosco.

Mr. Robert Cosgrove introduced himself as the attorney for the applicant, he called on Mr. Durkin.

Mr. Durkin explained that he had purchased the restaurant in December 2014; we closed for 6 months and did extensive renovations. He felt that it has been well received by the community although the only negative he has heard from his patrons is about the lack of outside dining. He stated that if permitted to have the outside dining the occupancy permitted at the restaurant wouldn't change. He feels that there would be less patrons dining inside the restaurant. To maintain the capacity the restaurant would track the patrons outside and sit that same number less inside the restaurant, keeping within the allowable number of patrons. Mr. Durkin stated that presently the outside is a little bit of an eyesore. He added that there would not be music, there would be umbrella tables. The operation for outside dining there would not be seating after 9 pm. Mr. Durkin stated that he felt it would not interfere with the neighbors as directly across Highway 71 is the golf course and a commercial building across the street. Mr. Durkin expressed that seating would stop by 9 pm. Mr. Tangeman inquired as to the seating allowed presently inside, Mr. Durkin wasn't. Mr. Cosgrove stated that the planner could answer that. Mr. Tangeman asked Mr. Durkin what he meant by eyesore, Mr. Durkin replied overgrown bushes and a rock garden. Mr. Tangeman stated that there is a Japanese Maple, which is nice. Mr. Durkin stated that outside was the only area that they didn't do improvements. Mr. Weiss stated that tracking the seating works in theory but when a patron comes to the restaurant and there isn't seating outside they'll go inside. Mr. Cosgrove stated that the planner would go over the occupancy and explain. Ms. Lalji stated that she drove up Mercer Ave tonight and that cars lined the street, she asked if there were complaints about parking. Mr. Durkin replied no, although patrons have said you must be busy because there wasn't street parking but he hasn't received complaints. Ms. Lalji asked to clarify that there wouldn't be music outside and no seating after 9pm, Mr. Durkin replied yes. Mr. Durkin added that he felt that in the summer months a lot of people walk, ride bikes and that presently more people use Uber service. Mr. Miller stated that the plans shows seating for 64, this could mean that 32 cars would be looking to park, where would they go? Mr. Cosgrove wanted to clarify the patron would be just for dining not create an outdoor bar. He added that the planner will review parking. He added if patrons arrive and there isn't parking that they would probably go elsewhere. Mr. Durkin replied that again most people in the nice weather arrive via walking and riding bikes or using

UBER. Mr. Tangeman offered that he doesn't see how patrons will be able to park; Mr. Cosgrove stated that the planner will address.

Mr. Brendle asked what the season would be for the outside dining; Mr. Durkin replied he thought it would be dictated by climate, Mr. Cosgrove offered that if the board had a preferred time frame the applicant would do whatever the board allowed. Mr. Brendle asked about the smoking area, Mr. Durkin replied that it is by front door. Mr. Brendle expressed concern that people would be congregating smoking and waiting to be seated outside which could potentially be a problem. Chairman Pearsall asked Mr. Durkin when the business was purchased did you intend on pursuing outside dining. Mr. Durkin replied no that patrons asked about it. Chairman Pearsall asked if Mr. Durkin was connected to St. Stephens when they came to board for outside dining, Mr. Durkin replied yes but the board had some issues so it was withdrawn. Chairman Pearsall asked Mr. Durkin if he felt that between the 2 properties does this seem to be the better location; Mr. Durkin replied yes. Ms. Lalji asked the present hours of operation. Mr. Durkin replied that the business is open until 2am but start closing about 1:00am. Mr. Zelenak asked when seating would stop outside, Mr. Durkin replied around 8:00pm.

Mr. Cosgrove called on Mr. Ray Carpenter. Mr. Carpenter reviewed his qualifications.

The following were marked as exhibits:

A-1 Color Rendering with outside patio.
A-2 Site Plans consisting of 2 sheets
A-3 Copy of CO issued by Fire Marshall

Mr. Cosgrove asked Mr. Carpenter to review the comments made in Mr. Lobosco's review letter. Mr. Carpenter reviewed the Mr. Lobosco's reviewing his letter that listed conforming and non-conforming requirements. Mr. Carpenter stated that parking requires 58 spaces are required and that presently there are 22. The Fire Marshall Inspection report indicates that with tables & chairs the allowance is 100 patrons. Presently, the inside seating is 119; the applicant is looking to add 64 outside. The occupancy varies when you look at standing vs. table's vs tables and chairs. Mr. Carpenter added that he measured the floor plan based on NJAC 5-70-2.112 the occupancy could be 199. Mr. Weiss added with 22 parking spaces. Mr. Carpenter stated that he also felt that more people use a bike this time of the year and that the Uber service is used more. Mr. Carpenter clarified that the applicant isn't looking to expand the occupancy. There was discussion among board members that they felt the occupancy would automatically increase. Mr. Carpenter added that the applicant not allow the seating to cover over, repeating that if 64 people are seated outside that less patrons would be seated inside.

Mr. Durkin stated that there was an agreement with the professional office across the street that his patrons could park there as when the restaurant needs increase the businesses across the street are closed. Mr. Brendle asked if there is a written agreement; Mr. Durkin replied none that he is aware of as the previous owner of the restaurant. Mr. Durkin pointed out that the parking is presently non-conforming with a capacity of 199 persons; he added that adding the patio wouldn't change that since due to restricting inside seating based on those seated for outside dining. Mr. Tangeman that presently lot coverage is over with the additional outdoor patio this adds to the coverage. Mr. Carpenter stated that there is a plan for stormwater management. Mr. Lobosco asked if it will be collected from the entire building, Mr. Carpenter replied yes. Mr. Tangeman asked if liquor will be served outside, Mr. Durkin replied yes; Mr. Durkin replied that an application would have to be made to ABC to expand. Mr. Quinn asked about the wall height is 3 ft. high, he expressed concern that Highway 71 has a 35 speed limit, is that wall enough protection? Mr. Carpenter replied that it could be built equivalent to what is referred to as a Jersey barrier which is 36" high reinforced, Mr. Carpenter replied that it would be about17 ft. away from the edge of the road. Ms. Lalji that drawing and photo the wall looks a little different, Mr. Rice stated that the plan is correct; the rendering is just to give a visual. Mr. Weiss asked if heaters would be used outside, Mr. Durkin replied that there were not considered. Chairman Pearsall stated that lot

coverage was high and if there was a way to reduce it and keep it what it is presently. Mr. Carpenter stated that possibly the architect could make some changes to reduce.

Mr. Cosgrove stated that the applicant could possibly reduce the number of tables outside. Mr. Tangeman asked about the parking arrangement with the office across the street how manty spaces that adds, Mr. Durkin replied about 20.
Mr. Lobosco pointed out that the decorative wall with the grill work on top exceeds the allowable height. Mr. Rice explained that the ironwork at the top was decorative, in an attempt to make it aesthetically pleasing.

Mr. Cosgrove called on Mr. Christopher Rice. Mr. Rice reviewed his qualifications. He reviewed Exhibit A-1; a color rendering showing proposed patio. The iron work and pergolas are mostly for decoration. Mr. Rice added that the owners did a lot of renovation work on the inside. Chairman Pearsall asked about the lighting outside, Mr. Rice stated is more for atmosphere, that the umbrellas would have interior lights.

The meeting was open to the public.

Katherine Kerris 607 Mercer Ave she stated that parking has always been a problem even prior to the Porch Restaurant. She herself has had parking issues in front of her own home. She suggested that the curbs or street indicating parking for residents only. Chairman Pearsall offered that possibly permits could be issued to residents of Mercer Ave. She stated that she over many years has gone out and had to pick up garbage off her lawn and her neighbors. She added that at one time the prior owner had an employee come down the street and pick up the litter. She feels that parking is a major concern.

Kat Crippen 564 Atlantic Ave. Stated that as the Chair of the Environmental Commission she has concerns. The rendering of the building is very nice but that there have been complaints about litter and noise. She also stated that it was her understanding that the sign on the building is not complaint; it's more like a billboard. She offered that she lives several blocks away but feels that there are more cars through the neighborhood. She stated that historically Spring Lake Heights has been opposed to outside dining; she feels this location is more geared towards a younger crowd and the board should consider this seriously.

Sara King, Councilwoman, stated that she resides 5 houses away from St. Stephens, there is always problems with traffic, noise and litter. She agrees that there is a younger crowd at the Tap House; this is a quality of life issue for those residents. She added that the outside dining would take away from the ambience of the town.

John Nagle, owner of Spring Lake Manor, he offered that if there was a perfect place for outside dining in town it would be at this location.

On a motion by Mr. Martin and seconded by Mr. Brendle the public comment period was closed, roll call taken, all ayes.

Mr. Cosgrove offered that the dining area is aesthetically pleasing, adding the outside dining will not increase the capacity. He added that the comment comparing this to prior request on the other side of town has no relevance. The applicant is willing to reduce the size of the patio and reduce the dining time outside to 9pm; he feels traffic will not be increased since capacity isn't increasing.
Mr. Tangeman asked Mr. Kitrick about the board addressing the benefits over detriments; he stated that he hasn't heard any benefits, other than residents having the opportunity for outside dining. Mr. Kitrick pointed that they would be installing the stormwater system.

Chairman Pearsall asked if there is a way to revise plans to maintain the existing coverage. Chairman Pearsall wanted to clarify the stormwater plan; Mr. Carpenter replied that it would be collected from the entire building.

Mr. Miller asked to move to vote.

Mr. Cosgrove offered that the application be carried to the next meeting to make revisions, Attorney Kitrick announced that a second notice is not required, that those present are hereby noticed that the applicant will be back.

Motion was made by Mr. Brendle to carry the application to the next meeting; seconded by Mr. Tangeman. Roll call taken:

AYES:	Mr. Brendle, Mr. Quinn, Mr. Tangeman, Mr. Weiss, Mr. Zelenak, Ms. Lalji and Chairman Pearsall
NAYS:	Mr. Miller
ABSTAIN:	None

Adjournment: On a motion by Mr. Brendle and seconded by Mr. Tangeman, the meeting was adjourned without objection at 9:55 p.m.

Submitted And Approved:

Janine Shea

Date: June 30, 2016