



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • DECEMBER 16, 2020

Special

REMOTE/VIRTUAL

7:30 PM

Clement V. Sommers Municipal Building, 910 Oceanport Way, Oceanport, NJ 07757

- I. **Call to Order:** Chairman Widdis called the meeting to order at 7:30 PM
- II. **General Statement:** Chairman Widdis advised the public that the Board shall be under no obligation to consider new matters after 10:00 p.m., and will take no new testimony beyond 10:30 p.m. This rule may be waived by the Chair or by an affirmative vote by a majority of the Board members present and qualified.
- III. **Open Public Meetings Statement:** This special meeting complies with the Open Public Meetings Act by adequate and electronic notification on December 9, 2020 of this virtual/remote meeting, its location, date and time, and URL address at which to participate in the meeting to the Asbury Park Press and Star Ledger and by the posting of same on the municipal bulletin board, outside door of meeting location and Borough Web Site. This meeting is also being broadcast on the Borough's Local Public Access Channel, Verizon FiOS Channel 28. Chairman Widdis then read the virtual/remote meeting advisory advising the public how to attend and participate during public portions of the meeting as posted on the agenda, website and advertised in accordance with law.
- IV. **Flag Salute:** Chairman Widdis led attendees and members of the Board in the flag salute.
- V. **ROLL CALL:**

Attendee Name	Title	Status	Arrived
Christopher Widdis	Chairman	Remote	
James Whitson	Vice Chairman	Remote	
Patty Cooper	Mayor's Designee	Absent	
Thomas Tvrdik	Class III	Remote	
Joseph Foster	Environmental Committee Liaison	Remote	
John (Jack) Kahle	Class IV	Remote	
Michael Savarese	Class IV	Absent	
Robert Kleiberg	Class IV	Remote	
Darren Davis	Class IV	Remote	7:54 PM
Michael Dailey	Alternate I	Remote	
Jacob Rue	Alternate II	Remote	
Jeanne Smith	Board Secretary	Remote	
Kevin Kennedy	Board Attorney	Remote	
William White	Board Engineer/Planner	Remote	

VI. **Old Business:**

1. Resolution of Approval - 5 Brookview Dr - As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, which Mr. Whitson made a motion to approve the Resolution, which was seconded by Mr. Dailey and received the below roll call:

RESULT:	ADOPTED [6 TO 0]
MOVER:	James Whitson, Vice Chairman
SECONDER:	Michael Dailey, Alternate I
AYES:	Widdis, Whitson, Tvrdik, Foster, Kleiberg, Dailey
ABSENT:	Cooper, Savarese, Davis
INELIGIBLE:	Kahle, Rue

2. Resolution of Approval - 75 Horseneck Pt Rd - As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions; clarification on conditions provided after

which Mr. Foster made a motion to approve the Resolution, which was seconded by Mr. Whitson and received the below roll call:

RESULT:	ADOPTED AS AMENDED [5 TO 0]
MOVER:	Joseph Foster, Environmental Committee Liaison
SECONDER:	James Whitson, Vice Chairman
AYES:	Widdis, Whitson, Tvrdik, Foster, Kleiberg
ABSENT:	Cooper, Savarese, Davis
INELIGIBLE:	Kahle, Dailey, Rue

Mr. Davis entered the meeting at 7:54 PM.

3. Resolution of Approval - 161 Monmouth Blvd - As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, presented objections by the Applicant's attorney to conditions for the screening along retaining wall, shed and no utilities in the shed stating that Applicant didn't agree to those; discussion ensued and conditions to remain. After which Mr. Kleiberg made a motion to approve the Resolution, which was seconded by Mr. Whitson and received the below roll call:

RESULT:	ADOPTED AS AMENDED [7 TO 0]
MOVER:	Robert Kleiberg, Class IV
SECONDER:	James Whitson, Vice Chairman
AYES:	Widdis, Whitson, Tvrdik, Foster, Kleiberg, Davis, Dailey
ABSENT:	Cooper, Savarese
INELIGIBLE:	Kahle, Rue

4. Resolution for Dismissal without Prejudice - 74 Cayuga Ave - As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the purpose for the dismissal, lack of revised plans submitted, escrow not replenished, several continuances, concern for automatic approval which Mr. Whitson made a motion to approve the Resolution, which was seconded by Mr. Kleiberg and received the below roll call:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Cooper, Savarese

VII. New Business:

1. PB2020-26 Stetter, Kevin
111 Hiawatha Ave
Block 16, Lot 13.01

EXHIBITS

- A-1 Land Development Application
- A-2 Plan entitled "Survey of Property," hand marked-up copy of the survey, preparer and date unknown
- A-3 Survey of Property prepared by Charles Widdis Associates dated March 1, 1988, last revised August 19, 1993
- A-4 Maser Review Letter dated November 9, 2020

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. Ms. Smith provided the public with options to participate. While waiting for the public to call in, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4. As there were no objections to the notice Mr. Kennedy advised he and the Secretary had reviewed and found the notice to be in order.

Kevin Stetter, owner and Applicant, was sworn in. Mr. Stetter provided testimony describing his application to install a front porch, a project that he and his son wanted to work on during the pandemic, described the location and dimensions of the porch with a side yard setback of 7' where 10' required and an encroachment into front yard setback of not more than 6' from front of house with 6.83' proposed; porch is open with a roof and railings, no walls, no utilities.

Chairman Widdis asked Mr. White about the variance for front yard not in the technical review.

Mr. White responded that yard exceptions under 390-14 allows porches to encroach 6' into front yard setback and further review of application has porch about 28' setback so the front yard setback does not require a variance. He does need side yard setback.

Chairman Widdis asked for questions of the Board of this witness.

Mr. Kahle asked what was the relief requested and was told 9.7' where 10' required.

Mr. Whitson asked there would be no light on porch and was told correct – lighting would be on house to the side that illuminates the area.

Mr. Foster asked what would be the problem with reconfiguring the porch to not need the variance. Mr. Stetter responded that they configured it that way to provide for space to place the firewood.

Councilman Tvrdik asked if the walkway from the porch goes all the way to the front door and was told it down steps and then goes back up step to front door. Councilman Tvrdik asked Mr. White if it had to connect to the front door directly to be considered a front porch. Mr. White responded that the definition just calls for it to be connected to the house.

Mr. Kleiberg asked what materials would be used – pressure treated lumber.

Mr. Davis stated he drove by site and the gazebo was already there so its not proposed but half-built. Mr. Stetter responded that they started the project without filing appropriately as advised by Mr. Johnson and stopped building until applying for the variance.

Mr. Davis asked if it would be a deck or a porch with a roof and was told it was a porch. The deck connecting gazebo to house would not have a roof over it. Mr. Davis asked about the finishes to be used. Mr. Davis asked Mr. White if there was a difference between a deck and a porch. It only needs to be attached.

Mr. Rue commented that he would like a better understanding of a deck versus porch and asked if it impacts impervious coverage. There was discussion about the how the ordinance defines them. Mr. White added that if it has a roof it is considered in impervious coverage.

Chairman Widdis clarified that the Zoning Denial to the Applicant shows denial for side yard setback and front yard setback which subsequently was determined no front yard setback variance needed. The Applicant was not denied for impervious coverage. Mr. White pointed out that the construction was for a gapped deck with no impervious material beneath it so water filtrates through it even with a roof which the Applicant confirmed.

Mr. Rue asked about the shed in the north-east corner appears to need a variance as its close to the sidelines. Chairman Widdis commented that it was not on the denial and not part of the application. Mr. White interjected that his letter does note that the survey was from 1993 and did request that the Applicant testify to the current conditions as the survey does not show the shed. Mr. Stetter testified that the shed was there when he purchased – it would be a pre-existing condition before the ordinance change in 2013. Discussion ensued. The notice does provide for any other variances determined by the Board. After which the Applicant will mark up the plan to accurately reflect the location of the shed and its dimensions, 4'x6', so that the correct side yard setback variance be reflected for less than 10' side and 5' rear to which there were no objections.

PUBLIC: Chairman Widdis opened the hearing to questions from the public of this witness. As there was no one else from the public, Chairman Widdis closed that portion of the meeting.

PUBLIC: Chairman Widdis opened the hearing to comments from the public on the application. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Motion to Approve Application as Amended with Conditions

RESULT:	ADOPTED AS AMENDED [8 TO 1]
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey
NAYS:	Rue
ABSENT:	Cooper, Savarese

Mr. Dailey recused himself from the next matter due to a conflict.

2. PB2020-32 Rosenbloom, Matthew
47 Tecumseh Ave
Block 8, Lot 26

EXHIBITS

- A-1 Land Development Application
- A-2 Zoning Denial Letter dated June 22, 2020
- A-3 Survey prepared by Thomas P. Santry, P.A., dated September 19, 2014
- A-4 Plan of Survey prepared by KEE Engineering Enterprises, dated September 19, 2020

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. Ms. Smith provided the public with options to participate. While waiting for the public to call in, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4. As there were no objections to the notice Mr. Kennedy advised he and the Secretary had reviewed and found the notice to be in order.

Matthew Rosenbloom, Applicant, previously resided and owned the property and was sold but due to issues with zoning a conditional CO was issued. Mr. Rosenbloom testified that when he bought the property 5.5 years ago, he replaced the existing rotting deck with a new patio. Chairman Widdis asked wasn't the issue per the Zoning Officer that the dust used for the patio had solidified and would not percolate and became an impervious coverage issue. Chairman Widdis asked if the new owners had consented to the application and who were they. The current owner signed the application consent. Mr. Rosenbloom stated John Johnson would not give him a final CO because of the existing non-conforming condition. Mr. Davis expressed concern that the denial letter lends that it's a proposed project when its already completed. Board members expressed concern as to whether permits were obtained, inspections, etc. Mr. White affirmed that the Applicant was here for an impervious coverage variance of 57% where 37% permitted because of going from a deck to a stone patio and stone dust, stone dust is not considered pervious. Questions included what was the coverage when the deck was there, the deck was pervious, the replacement patio was impervious, all work is completed at the site, Councilman Tvrdik clarified for record that the survey actually indicates 58.3%; Mr. Rosenbloom hired a contractor to do the work and thought he had obtained the appropriate permits and would do what needed to be done; gas line to the grill, coverage when deck was there was 47% coverage already,

PUBLIC: Chairman Widdis opened the hearing to questions from the public of this witness. Ms. Smith provided the contact information to participate. As there was no one else from the public, Chairman Widdis closed that portion of the meeting.

Councilman Tvrdik asked Mr. Rosenbloom if there were discussions with the new owner as to changes that could be made to reduce the coverage – put grass down. Mr. Rosenbloom answered no. Discussion ensued on what could be done such as remove walkways and replace with grass, what inspections were outstanding, conditional CO – everything had passed except this matter for the final CO; were new owners aware it wasn't inspected and was told yes – everything in connection with the patio was part of the contract.

PUBLIC: Chairman Widdis opened the hearing to comments from the public on the application. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Councilman Tvrdik asked if Mr. Rosenbloom would go back to new owner to make changes to address it or did he want to move forward. Mr. Rosenbloom commented that the most that he thought could change would be 100 s.f. and wanted to just move forward.

Mr. Whitson make a motion to deny the application as stated due to the Applicant' unwillingness to address concerns. Councilman Tvrdik seconded the motion. Mr. Rosenbloom stated if he owned the property he would do whatever he had to but because he wasn't the owner it was out of his control but he was willing to go back to the owner. Chairman Widdis asked Mr. Kennedy to speak to this as the Applicant was between a rock and a hard place. Mr. Kennedy suggested that Mr. Rosenbloom go back to the Owner and make the attempt to resolve or minimize the coverage and discuss with them. Mr. Kennedy explained what happened if the application was denied and res judicata would require removal of inappropriate improvements and reapply with a materially different application. Mr. Rosenbloom requested to adjourn the hearing so he could reach out

to the current owner and consider alterations to address the Board's concerns. Mr. Rosenbloom also agreed to extend the deadline for a decision.

Motion to Carry Hearing to the January 26, 2021 Meeting with no additional notice required

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Whitson, Vice Chairman
SECONDER:	Thomas Tvrdik, Class III
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Cooper, Savarese

Mr. Dailey re-entered the meeting at 9:21 PM

Mr. Whitson disclosed for the record that the next Applicant had the same employer, he works in a different department, does not directly supervise her and believes he can be impartial and unbiased.

3. PB2020-27 DL

49 Sagamore Ave
Block 11, Lot 25

EXHIBITS:

- A-1 Land Development Application
- A-2 Zoning Denial Letter dated July 30, 2020
- A-3 Topographic Survey of Property prepared by Lakeland Surveying, dated June 23, 2020
- A-4 Maser Consulting Review Letter dated November 2, 2020
- A-5 Grading Plan prepared by R.C. Associates Consulting, Inc. dated July 22, 2020

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. Ms. Smith provided the public with options to participate. While waiting for the public to call in, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4 and A-5. As there were no objections to the notice Mr. Kennedy advised he and the Secretary had reviewed and found the notice to be in order.

DL, Owner/Applicant, was sworn in. Ms. DL testified that she owned the property with her husband for about 7 years and described her application for an in-ground pool in the rear yard that requires variance relief for lot width and lot area. In 2005 variances were granted for a single family dwelling on the non-conforming lot, in 2008 the property was granted a variances for rear setback and building coverage for a deck – there were no impervious coverage requirements at that time. When they purchased the property they had a coverage analysis done that indicated 30.54% building coverage existing and existing impervious coverage at 50.54%. Due to conflicting work schedules they are not a beach family and in light of the recent health pandemic, they are looking to remove the existing deck in order to have it at grade to improve connectivity with their outdoor living space with a small stair and landing at grade, construct an in-ground pool for the opportunity to enjoy their outdoor space. Proposed pool is 12'x24' with a proposed setback of 5' rear yard where 10' required, 5' from side yard where 10' required and 7.66' from dwelling where 10' required. She provided additional testimony concerning the choice of location related to the egress to the house and compliance with other code requirements, pool equipment location near AC condenser, and would be shielded, and an existing row of evergreens currently buffers that neighbor. They are seeking to increase impervious coverage from 50.54% to 57.84%, modifications include elimination of deck, new stair and landing and pool and walkway around pool, and equipment. She next addressed engineer's comments – they will comply with provision of additional spot grades and information as required by engineer and will modify plan accordingly, the infiltration trench and percolation test – they are willing to provide the engineer the information with the adequacy of the infiltration trench. Ms. DL testified that a hardship exists due to the existing lot conditions which would require variance relief for most development and improvements. Positive impacts include reducing height of deck and improving property.

Chairman Widdis asked Mr. White to review his letter and the variances being sought and his request for additional information in order to review drainage and the need for adjacent property information and the uncertainty of whether there is any perk and if any remediation will be needed for runoff to the adjacent properties. He asked if the pool could be made smaller to eliminate or minimize any of the setback variances. He also reviewed the intent of the code for impervious coverage to reduce overdevelopment of lots.

Chairman Widdis asked for questions of the Board of this witness.

Mr. Whitson asked if any neighbors have complained about runoff from her property and was told no.

Mr. Foster expressed concerns about runoff issues and recharge, that impervious coverage on a small lot was problematic and echoed Mr. White's concern about the adjacent properties and was not comfortable making a decision on the application without that information.

Councilman Tvrdek agreed with Mr. Foster and would want buffering against noise for pool equipment and seeing what the adjoining properties on rear and side are.

Mr. Kleiberg agreed with members Tvrdek and Foster.

Mr. Kahle asked if consideration had been made to move pool away from neighbors to reduce impacts. Ms. DL stated they were willing to look at moving the pool to eliminate variance on the west side of the property – that neighbor has a pool that is 8' from the property line. Mr. Kahle asked if it was just the vinyl fence on that side for privacy. Ms. DL answered that the neighbor to the rear's house was quite some distance from the lot line.

Mr. Davis commented he could not make a decision based on the information provided – would like to have more elevation shots, no evidence of testing and believe the pool could be moved over and possibly remove a shed to reduce the coverage and the design could be improved and was not comfortable voting as presented. Mr. Dailey echoed prior member comments and would like more information in order to make a decision.

Chairman Widdis expressed concern with the pool being so close to the house, asked for dimensions around pool, and believes the design should be reconsidered to reduce the number of variances.

Mr. Kennedy opined that the Board would not be able to vote without the needed information and hearing from the public.

Ms. DL advised that they would reconsider the design and requested to carry the application.

Mr. Kennedy advised the public of the adjournment and that the meeting would start at 7PM

Motion to Carry to the January 26, 2021 Meeting with no additional notice required

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Tvrdek, Foster, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Cooper, Savarese

- VIII. Petitions from the Public:** Chairman Widdis opened the meeting to Petitions from the Public. Ms. Smith displayed and gave the instructions for the public to participate in this portion of the meeting. As no one else from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

Councilman Tvrdek thanked everyone for all their work that year and special thanks to Jeanne for everything she does. Ms. Smith advised we have one more meeting next week and asked everyone to be present to hear the major application for the lodging parcel.

- IX. Adjournment:** As there was no further business, the meeting was adjourned at 9:59 pm on a motion by Mr. Whitson which was seconded by Mr. Foster and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary