



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • DECEMBER 14, 2021

Regular

Clement V. Sommers Municipal Building

7:00 PM

910 Oceanport Way, Oceanport, NJ 07757

- I. **Call to Order:** Chairman Widdis called the meeting to order at 7 PM
- II. **Board Policy:** Chairman Widdis advised the public of the below Board policies: - It is Board Policy that no application will be opened after 10:00 P.M. - No new testimony will be taken after 10:30 P.M., except at the discretion of the Board.
- III. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by adequate and electronic notification on June 29, 2021 of this meeting and its location, date and time to the Asbury Park Press and Two River Times and by the posting of same on the municipal bulletin board and Borough's Web Site.
- 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	Present	
James Whitson	Vice Chairman	Present	
Patty Cooper	Mayor's Designee	Present	
Thomas Tvrdik	Class III	Absent	
Joseph Foster	Environmental Committee Liaison	Present	
John (Jack) Kahle	Class IV	Present	
Michael Savarese	Class IV	Absent	
Robert Kleiberg	Class IV	Present	
Darren Davis	Class IV	Present	
Michael Dailey	Alternate I	Present	
Jeanne Smith	Board Secretary	Present	
Kevin Kennedy	Board Attorney	Present	
William White	Board Engineer/Planner	Present	

VI. **Board Business:**

1. Notice - West Long Branch Zoning Board Hearing on Block 136, Lot 54 – Ms. Smith brought to the Board's attention the notice for a parcel along Eatontown Blvd. near the cemetery and advised of the West Long Branch hearing date for those interested in attending.
2. Report of Pending Applications - Ms. Smith advised that the 2022 Reorganization Meeting would be scheduled for January 11, 2022 with applications for 73 Monmouth Blvd, 523 Port Au Peck Ave to be scheduled.
3. PB2021-16 Barker's Circle – Ms. Smith advised that this application had been carried from the Nov. 16, 2021 as the Board's dates for 2022 had not yet been set. Dates were discussed with the Board and at the Applicant's request in order for sufficient time for new members to familiarize themselves with the application, was carried to January 25, 2022 with no additional notice required.
Motion to Carry to January 25, 2022

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Tvrdik, Savarese

VII. **Approval of Minutes:**

1. Planning/Zoning Board - Regular - Nov 24, 2020 7:30 PM

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

2. Planning/Zoning Board - Reorganization - Jan 12, 2021 7:00 PM - This set of minutes was rescheduled for Jan 11, 2022 agenda.
3. Planning/Zoning Board - Regular - Jan 26, 2021 7:00 PM

RESULT: **ACCEPTED [UNANIMOUS]**
MOVER: James Whitson, Vice Chairman
SECONDER: Patty Cooper, Mayor's Designee
AYES: Widdis, Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT: Tvrdik, Savarese

4. Planning/Zoning Board - Regular - Nov 9, 2021 7:00 PM

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

VIII. Old Business:

1. PB2020-21 Somerset Lodging Parcel - Approval of Street Names
 Motion to Accept Street Names - Driftwood Circle & Sunset Road

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Joseph Foster, Environmental Committee Liaison
SECONDER: John (Jack) Kahle, Class IV
AYES: Widdis, Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT: Tvrdik, Savarese

2. PR-21-33 Resolution of Approval - Oport Partners, Phase II

Mr. Kennedy advised that there had been several discussions with the developer's attorney as well as Borough representatives. He reviewed the proposed changes and the resolution conditions including operating hours, road circulation and road weight limitations, the developer's agreement to be put in place with the Borough, no overnight truck parking except in designated loading areas in or near the buildings, directing of heavy traffic to County Rt. 537 with language inserted into lease agreements, good faith attempt to petition FMERA and the Borough for signage to be located on Anson and Main directing traffic to Rt. 537 and consider imposing weight limitations on appropriate roadways, trucks shall be directed to enter the complex through the Rt. 35 main gate in leasing documents, best efforts to limit nighttime shipping and deliveries to the site, applicant to petition FMERA to ascertain physical condition or if walkway path is needed to the footbridge near applicant's property. There was a lengthy discussion concerning the operating hours, road circulation and road weight limitations, what should be handled through a developer's agreement with the Borough, only DOT has the power to change road weight limits, and the Board's understanding that during testimony the hours of operation were agreed to by the Applicant. Mr. Kennedy advised that he and Ms. Smith would revisit the minutes/recording word for word and bring back.

Motion to Return to Jan. 11, 2022 after Attorney and Secretary Review Hearing Minutes Concerning Hours of Operation

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

3. PB2021-13 SCHMIDT, WILLIAM W.

CARRIED from Nov. 9, 2021

101 Smith Street

Block 49, Lot 1

Bulk variances for construction of single-family dwelling

EXHIBITS

A-10 Plot/Grading Plan prepared by Charles Surmonte P.E. & P.L.S., last revised December 1, 2021

A-11 Architectural Plans, 5 Sheets, prepared by William Herchakowski R.A., last revised December 1, 2021

A-12 Colliers Engineering Review Letter dated December 6, 2021

A-13 Photographs of Property, 1 Sheet, undated

A-14 Illustrated Rendering of Proposed House, 7 Sheets, prepared by William Herchakowski, R.A., undated.

Mr. Kennedy advised that this hearing was a continuation. Board Engineer/Planner William White was sworn in.

Mr. Kennedy described and marked additional Exhibits A-10 through A-14

Charles Surmonte, Applicant Engineer and William Herchakowski, Applicant Architect remained sworn in.

Mr. Herchakowski reviewed changes to the plan as requested by the Board at the last hearing including increasing the front setback by 5.8' pushing the house back further away from the street, referring to A-13 described the surrounding conditions; referring to A-14 described the architectural changes to the plan, landscaping and stone, proposed decks, driveways and distance to the river. He further described the changes to the front of the house including widening it, reduction of vestibule from 18' to 8.4' and front porch reduced from 8' to 6' essentially creating a bridge for the entry.

Chairman Widdis asked questions about the type of landscaping.

Chairman Widdis invited questions from the Board.

Mr. Davis asked questions about setback to be larger, not 5'+. Mr. Herchakowski responded yes, but they were also asked not to move towards river and the Borough ordinance provides for front porch to project 6' into the front setback. Rear setback remained same.

Mr. Kahle expressed concern for the boat ramp access last time and if they had addressed it. Mr. Herchakowski answered no, the driveway there is permitted and approved by the Borough and it would take a complete redesign of house to change that. It's his professional opinion that the design is permitted.

Mr. Kahle asked Mr. White what if someone parks on the road – Mr. White responded that the application isn't for a parking variance, there's sufficient room in the driveway for 4 spaces and turn around and the roadway is not sufficient for parking. Mr. White recommended that the Board appeal to the Mayor & Council to prohibit parking on that part of Werah. There was discussion on how the street end has been used by residents, the adjacent neighbor has driveway that comes off that street end.

Mr. Whitson stated he thought it was an improvement from the original plan and he was fine with it.

Mr. Foster agreed with Mr. Whitson but asked about the side yard setback and if it could be moved a bit further to the north to help alleviate the side yard setback with the next door neighbor. They do not need a variance for that side.

Ms. Cooper thanked them for the changes and consideration of the Board's concerns and cautioned to be mindful of the side tract.

Mr. Herchakowski commented further regarding the ramp on Werah and the Applicant's request to the Borough to repair the bulkhead as he will be replacing his and has made every attempt to improve the situation.

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

Chairman Widdis asked for comments from the Board. Mr. Davis commented that the driveway is permitted and he thinks it's ok, the representation of seeking Council to limit parking there was warranted and the efforts were improved from the last hearing.

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

Motion to Approve Application as Amended with Conditions

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
NAYES:	Widdis
ABSENT:	Tvrdik, Savarese

IX. New Business:

1. PB2020-05 McGeddy, William
75 Comanche Drive
Block 5, Lot 5
Variance for impervious coverage

EXHIBITS:

- A-1 Land Development Application
- A-2 Boundary Location Survey with Zoning Data, prepared by American Layout & Land Surveying, last revised December 2, 2019
- A-3 Maser Consulting Review Letter dated March 26, 2020

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. While waiting for the public to respond, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3. 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.

William McGeddy, Applicant, and Michael McGeddy, son of applicant, were sworn in.

Mr. W. McGeddy testified that he was the owner of the property with a single-family home. Mr. M. McGeddy advised that the stone driveway had been there for 45 years and they merely paved over the area to improve/maintenance it and the aesthetics and get rid of stones.

Chairman Widdis asked when did the basketball court go in and was told 20+ years ago.

Mr. White summarized that the zone has a maximum impervious coverage of 37% and the existing is 43.44%.

Mr. Foster asked if they should address the shed.

Mr. Davis commented that the shed meets all the setbacks.

Mr. Kleiberg asked if they had improved only over the existing and was told yes.

Mr. Kahle asked what had brought this about. Mr. M. McGeddy responded they recently paved it and was told by the zoning officer that it needed a variance.

Mr. Foster asked about water runoff and if there had ever been a situation in the back. Mr. McGeddy responded that it was on a hill and drains to the street very well.

PUBLIC: Chairman Widdis opened the hearing to questions or comments. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

Motion to Approve

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Tvrdik, Savarese

2. PB2021-11 Richard Veltri

9 Pocano Ave
Block 39, Lots 6 & 7
Minor Subdivision with Variances (Lot Line Adjustment)

EXHIBITS

- A-1 Land Development Application
- A-2 Location Survey" prepared by Land Control Services, LLC dated March 1, 2016
- A-3 Minor Subdivision (Lot Line Adjustment)," prepared by Land Control Services, LLC., dated April 1, 2021, consisting of one (1) sheet
- A-4 Colliers Engineering Review Letter dated October 11, 2021

Mr. Davis recused himself at 8:08 PM as he lives next door to the Applicant.

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. While waiting for the public to respond, 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.

Salvatore Alfieri, Attorney for Applicant, explained the ownership of the two lots – one lot being in the name of an LLC which was owned by both Richard and Lisa Veltri.

Richard Veltri, Owner of 9A Pocano Ave (Lot 7) and Part Owner of 9 Pocano Ave, LLC (Lot 6) shared with Lisa Veltri was sworn in.

Mr. Alfieri asked questions of Mr. Veltri who testified that the application was for 9 Pocano Ave and described the location of a garage that straddles both lots, the history of renovations to the rear lot and ½ of the garage as at the time Lot 6 was owned by the Harmons, the purchase of Lot 13 by his in-laws which house was knocked down and rebuilt. He admitted that he never got a permit for the garage work but because all the lots are separate and the garage no longer has a wall down the middle of it that it was best to adjust the lot line to make the garage only on the back lot.

Mr. Alfieri asked when he purchased the front lot (Lot 6). Mr. Veltri responded about 4.5 years ago. Mr. Alfieri asked when he purchased it there was a single family home to the left on the lot and was told yes. Mr. Alfieri pointed out to Board members that the subdivision plan there is a faint line that shows the former home and asked Mr. Veltri what was the condition of the home. Mr. Veltri responded that they purchased the house outright and that he never actually entered the house when it was purchased. They purchased it blindly and it was never their intent to ever use the home for anything other than knocking it to the ground. His attorney advised that they should have an inspector check it out just in case you walk in there and it falls on top of them or something goes wrong. Mr. Veltri testified that the inspector went and looked at the house and told him, "it's the works think I've ever seen before. The foundation is shot, the house is gonna fall down. It's a miracle that its standing". Mr. Veltri stated that 3 weeks later they got a permit to take the house down and cleaned the property up. Mr. Alfieri asked if the house that was there was similar to the house currently on the lot. Mr. Veltri answered that he believed the former house was slightly larger, the existing house was not overbuilt. Mr. Veltri added that the former house had a horseshoe driveway he thinks before the subdivision otherwise how would they have gotten to the back. There is an easement with the driveway that allows the rear house to use it to get to that house. He believes the easement should only be for the people in the back. There's only one street cut – which previously led to the ½ circle driveway in front of the front house as well as went back to the rear house and is what is being proposed with the new house to be built as shown on the plan.

Mr. Alfieri asked Mr. Veltri questions about the shed on the rear lot. Mr. Veltri testified that the shed was pre-existing and was the only thing that remained from the original house in the back. It was moved about 20' during Sandy but they moved it back. He prefers to leave it but if the Board wants him to move it he will.

Mr. Alfieri asked Mr. Veltri questions about the retaining walls which are to the western portion of the property between the 2 lots. Mr. Veltri testified that when he did the rebuild of the rear house, the wall was shot, unknown how old, ripped it out and rebuilt it in exact location right on the property line.

Mr. Alfieri commented that the application was for a lot line adjustment that would effectively put the garage in the rear completely on the rear lot (Lot 7) and the front house would have a separate two car garage within the build. The rear lot doesn't have a garage other than the detached.

Chairman Widdis asked questions about the notice and if it mentioned the LLC. There was discussion on whether the notice needed to name the property owner, owner consents. Mr. Kennedy opined that the lack of property owners on the notice was not a notice issue, what was important that the owner's have consented to the application.

Mr. Whitson asked if there was any issue with Lochner doctrine. Mr. Kennedy elaborated that the Lochner doctrine had to do with merger of lots and with the testimony of the 3rd lot asked Mr. Alfieri to opine on the topic. Mr. Alfieri commented that the front and rear lots were owned by separate entities – an individual and an LLC – regardless of who owns LLC. Mr. Alfieri further argued that the lots always had a single family house on it wasn't two lots, one being vacant. Mr. Whitson asked doesn't Lochner merge them and Mr. Alfieri answered, not if they are developed. There was discussion on when lots merge with or without houses on them.

Mr. Alfieri noted that if the Board is not satisfied with his argument he suggested instead of debating that night, the attorneys would provide something in writing. Mr. Kennedy counseled the Board that the matter can be a complicated one and that it would be a good idea to permit Mr. Alfieri time to prepare the argument in writing which was agreed to.

Chairman Widdis asked about the easement testimony and vacating it. Mr. White commented that the plan notes that the easement is to be extinguished (removed) on 7.

Mr. Veltri and Mr. Alfieri clarified that the easement to be distinguished was the front lot's access to the garage and water.

Discussion ensued on the setback of the easement access and driveway and its expansion to 12'.

Chairman Widdis asked for the proposed easement to be provided in writing. Mr. Alfieri responded that they would provide the title search done and provide the deeds to show the Board the easement language.

Mr. Whitson asked if they were creating a flag lot by doing this which are prohibited in the ordinance. Mr. White answered no, it's a landlocked lot with an access easement. Mr. Kennedy added no, not creating a flag lot but preserving access to the public street.

Mr. Kahle asked if there are 2 undersized lots and you take property from the front lot making it smaller, why would they do that. Mr. Alfieri advised that the rear house doesn't have a garage. Mr. Kahle asked why not move the garage to the rear lot. Mr. Alfieri commented that he would have to tear down the garage and the purpose of the lot line adjustment was so the existing garage would be on the back lot and service that lot. The front house will have its own garage.

Mr. Foster expressed concern for the building on Lot 6 and the easement being proposed to expanded but there's no variance request for the side property line and wanted the plans to reflect those issues upon return.

Mr. Whitson asked how close to the front house was a car driving on the easement to the rear house. The Applicant will provide details.

Mr. Kahle asked for clarification about the side setbacks and driveway width not adding up and why doesn't he need side yard variance.

Mr. White stated that the easement is proposed to be increased to 12' and clarified that the driveway is 12' with 3' from the house and

the other side of house is 10' setback with 25' house totaling the 50'. Mr. Veltri added that it's the driveway that exists and is 12'. Board members expressed concern that the plan doesn't accurately reflect that and asked that the plan be revised to show that.

Mr. Kleiberg asked that they come back with a whole set of new drawings.

Mr. Dailey asked was there an existing house on Lot 5, 6 and 7 – 3 houses. Mr. Veltri answered yes, there was, and now only 2.

PUBLIC: Chairman Widdis opened the hearing to questions of this witness only.

Bryan Keeshen, 25 Hiawatha Ave, asked about the home that was demolished without permits – Mr. Veltri interrupted saying that he didn't say that – there were permits. Mr. Keeshen asked to confirm his statement that the original house was in disrepair which Mr. Veltri responded yes. Mr. Keeshen stated that he worked on the front house after Sandy's and it was not in disrepair and wanted that to be reflected on the record.

Michael O'Brien, 216 Comanche Drive, pointing out the proposed lot line move makes the front lot smaller questioned if that was consistent with Oceanport's needs and moving forward was that something they wanted to do create more non-conforming lots.

As no one else from the public presented, Chairman Widdis closed that portion of the meeting.

Mr. Alfieri called for the architect's testimony next.

Pietro Rosato, Applicant's Architect was sworn in, presented his qualifications and was accepted as an expert in architecture. Mr. Alfieri began introduction of additional exhibits but Board members asked if that could be reserved for next time to which Mr. Alfieri agreed.

Motion to Carry to Feb. 8, 2022 with no additional notice

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

- X. Petitions from the Public:** Chairman Widdis opened the meeting to Petitions from the Public. As no one else from the public wished to be heard, Chairman Widdis closed that portion of the meeting.
- XI. Adjournment:** As there was no further business, the meeting was adjourned at 8:55 pm on a motion by Mr. Kleiberg which was seconded by Mr. Kahle and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary