OCEANPORT PLANNING BOARD
MINUTES
December 12, 2012

Chairman Widdis called the meeting to order at 7:30 p.m. and announced that the meeting had been advertised in accordance with the Open Public Meetings Act.

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mr. Kahle, Mr. McCarthy, Councilman Johnson, Mr. Kleiberg, Mr. Savarese, Mr. Sullivan, Mr. Whitson, Mr. Fichter (entered at 9:00 pm), Ms. DeSousa, Mr. Widdis

OFFICIALS PRESENT: Jeanne Smith, Board Secretary, John Wopat, Esq. for Rick DeNoia, Board Attorney, William White, Board Engineer/Planner

BOARD BUSINESS:

1. Minutes of an Executive Session on October 10, 2012 were approved as presented on a motion from Mr. Whitson and a second from Mr. McCarthy and approved by the eligible Board members.
2. Minutes of the meeting of October 18, 2012 were approved as presented on a motion from Mr. Whitson and a second from Mr. McCarthy and approved by the eligible Board members.
3. Minutes of the meeting of October 24, 2012 were approved as presented on a motion from Mr. Whitson and a second from Mr. McCarthy and approved by the eligible Board members.
4. Minutes of the Workshop meeting of November 28, 2012 were approved as presented on a motion from Mr. Whitson and a second from Mr. McCarthy and approved by the eligible Board members.
5. Minutes of the meeting of December 5, 2012 were approved as presented on a motion from Mr. Whitson and a second from Mr. McCarthy and approved by the eligible Board members.

Chairman Widdis advised that the Agenda would be taken out of order as the persons for the Oceanport Center LLC had not yet arrived.

NEW BUSINESS:

1. PB2012-08 – Keeshan, Bryan & Cindy
   25 Hiawatha Avenue
   Block 15, Lot 20
   Request for Bulk Variances for front yard setback, lot width, lot area

A-1 Set of Architectural Plans, Sheets 1-6, prepared by William R. Miller III, R.A., dated March 4, 2012

Robert Witek, Attorney for Applicant, gave a brief introduction and then submitted for the record a Set of Architectural Plans, Sheets 1-6, prepared by William R. Miller III, R.A. dated March 4, 1012 which was marked as **Exhibit A-1**.

The following persons were sworn in: Bryan Keeshan, Applicant and William White, Board Engineer and Planner.

Mr. Keeshan gave testimony providing a description of the existing structure, the lot's dimensions and its non-conformance for the zone and the inability to purchase from adjacent land owners to bring the lot into conformance. Mr. Keeshan also testified concerning a proposed 8' wide porch that would extend 16' from the front property line, described the covered porch that would bring the roofline down and keep the area of the 2nd floor from being excessive in relationship to the neighbors' homes as reflected on Exhibit A-1. Mr. Keeshan stated that he spoke with his neighbors prior to the meeting and that they had no objections. Mr. Keeshan, as a builder, stated that he was familiar with aesthetics and it was his opinion that the proposed improvements conform with the existing neighborhood and that the roofline as proposed was more aesthetically pleasing. Mr. Keeshan further testified that he would comply with the conditions of the Engineer's review letter, proper notice was served and that he agreed to comply with the Engineer's concerns with grading and would follow any and all recommendations concerning grading if the relief were to be granted and that he would comply with all applicable building codes.

Chairman Widdis asked how it compared with the adjacent neighbors protrusions. Mr. Keeshan answered that the existing 5' stoop was similar to the 2 adjacent properties and he was requesting to extend it to 8' from the face of the house and expand along 2/3rd of the front of the house as a porch instead of a stoop.

Mr. White commented that the Applicant had addressed his comments and reiterated the relief was for the lot width and lot area which was existing. There was discussion about lots of similar non-conforming size on the street.

Mr. Savarese asked about the porch being enclosed, would there be a deck on the back of the house and was told no, but there were plans to put in a patio.

Mr. McCarthy commented that Ordinance allows 6' for porch and Applicant wants additional 2' and was told correct.

Mr. Kahle asked if a variance was necessary because the 2nd floor extends over the roof of the 1st floor into the 30' setback. Mr. White explained that technically yes, but the front setback was for the porch. Mr. Witik stated that it had not been noticed by himself or the Borough officials but that he had noticed for any and all other variances that may be required and had no objection. Mr. Kahle asked how the proposed porch would compare with the neighbors'. Mr. Keeshan answered that they had not measured but that if one stood at the porch location and looked down it appeared within inches of each other.

Mr. Whitson asked for the exact dimensions of the porch and was told 8'x24'.

Chairman Widdis asked about lighting to be used and was told high hats. Chairman Widdis asked the Applicant to be considerate of neighbors with any lighting plans.

Mr. Savarese interjected that the plans show the porch as 8'x27' and the Applicant apologized for misspeaking and that it was 8'x27'.

Mr. Kahle continued 30' was required, adding the 6' allowed for porches which provides for 24' setback, the existing house was 24.86' front setback so the proposed 8' porch would put it at 16.86'

Chairman Widdis opened the meeting to questions or comments from the public.

PUBLIC:

As no one from the public wished to be heard Chairman Widdis closed that portion of the meeting.

Mr. Sullivan made a motion to approve the application which was seconded by Councilman Johnson and received the following roll call:

AYES:	Mr. Whitson, Mr. Kahle, Mr. McCarthy, Councilman Johnson, Mr. Savarese, Mr. Kleiberg, Mr. Sullivan, Ms. DeSousa, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Fichter

INELIGIBLE: None

Ms. Smith stated the motion carried.

OLD BUSINESS:

2. Oceanport Center LLC **CARRIED FROM NOV. 28, 2012**
E. Main Street
Block 88, Lot 26.01
Application for Amended Site Plan

A-7 Driveway Exhibit Option1, Sheet EX-01, prepared by Hammer Land Engineering, dated December 10, 2012
A-7a Driveway Exhibit Option 2, Sheet EX-02, prepared by Hammer Land Engineering, dated December 10, 2012
A-8 Revised Plan, Option 1, Showing Accessibility and Maneuverability of Fire Trucks with Curb Cuts as Proposed
A-8a Revised Plan, Option 2, Accessibility and Maneuverability of Fire Trucks with Curb Cuts as Proposed
A-9 Various Correspondence from Fire Marshal, Traffic Safety, Fire Department and First Aid Squad
A-10 Memorandum dated December 6, 2012 prepared by Henry Ney, PE

P-1 Photographs Depicting Intersection, Striping and Turn Lanes, 3 sheets, taken by Henry Schultz on December 12, 2012.

Peter Falvo, Attorney for the Applicant, gave a brief summary of the last hearing and recalled expert Joseph Hanrahan. Mr. Falvo presented and described documents that were marked as Exhibits A-7 and A-8. Mr. Hanrahan was sworn in.

Mr. Hanrahan gave a description of Exhibit A-7 which had been prepared in response to the Board's concerns at the last hearing. Mr. Hanrahan explained how the driveway previously submitted had been modified to shift the driveway access to the east to gain additional stacking space for the left-hand turn lane, provide a 21' entrance driveway and a 14' exit driveway for a full-turning movement driveway.

Mr. Falvo asked Mr. Hanrahan to address any striping proposed to facilitate the left hand turn movement into the site. Mr. Hanrahan testified that they performed a field survey along with aerial photography to identify the existing striping on that section of Port Au Peck Avenue, described the proposed changes shown on Exhibit A-7 including taking the hatched area and striping in a left turn lane for the proposed driveway. Mr. Falvo stated then a vehicle travelling eastbound on Port Au Peck Avenue would have the ability to pull into the left turn lane allowing traffic proceeding east to continue and was told correct. Mr. Falvo asked Mr. Hanrahan to address site distances for the proposed driveway. Mr. Hanrahan described and explained the site distances to the east and west which exceeded the standard highway design requirements.

Mr. Falvo requested that Sheet 2 of Exhibit A-7 be labeled A-7a and asked Mr. Hanrahan to explain the second option. Mr. Hanrahan described a design option that shows a more divided driveway, entrance on east bound only and exit only on the western side of the lot and a left hand turn lane from Port Au Peck, the dimensions, the proposed striping for that option, the lane sizes would be 11' wide with a bike lane 4' wide except for the last 50' the bike lane would go from 4' to 6' wide directly after the entrance, how it would adjust the traffic lanes and transitions, how emergency vehicles would access the site. Mr. Hanrahan also gave testimony regarding the Board's concerns with the utility pole located within the island of the entrance and explained why the pole was not an obstruction, the island in option 2 provides 65' between the exit and the entrance.

Mr. Falvo stated that completed testimony for that witness.

Chairman Widdis advised Mr. Falvo of responses received from fire marshal, fire chief and first aid captain concerning any impacts the proposed development might have on their services.

Mr. Falvo requested that the letters from Fire Chief, Traffic Safety, First Aid Captain and Fire Marshal be marked as **Exhibit A-9.**

Mr. Whitson asked how many cars could line up in the left turn lane and was told 1 car and when asked if that was enough Mr. Hanrahan said yes. Mr. Whitson asked questions about the site distance of the left turn lane, the bike lane width.

Chairman Widdis asked when going west how many cars would fit in the left turn lane at the light onto Oceanport Avenue and was told that lane would not be impacted and would not change but estimated it to hold about 9 cars. There was additional discussion and disagreement about how many cars would fill the left turn lane going east on Port Au Peck Ave onto Oceanport Ave.

Maurice Rached, PE, PTOET, Traffic Expert, Maser Consulting, provided additional explanation to the Board on how the calculations were made for stacking and that the Applicant's professionals were correct.

Chairman Widdis opened the meeting to questions or comments from the public.

PUBLIC:

A resident stated he had questions about traffic and was advised by Chairman Widdis to hold those questions for the traffic expert.

As no one from the public wished to be heard Chairman Widdis closed that portion of the meeting.

Mr. White asked Mr. Hanrahan to confirm that both options provided fully functioning movements with no restrictions and was told yes.

Mr. Savarese asked shouldn't the left turn lane be wider. There was discussion about the permitting the left turn lane. Chairman Widdis told Mr. Falvo that the last hearing it was discussed that there would be no left turn entrance. Mr. Falvo answered that the designs provided were full service. There was additional discussion on the issue with Mr. Falvo stating that they had brought back a design that they thought would address the Board's concerns while providing a full service entrance.

Henry Ney, PE, was sworn in and presented his qualifications and was accepted by the Board as an expert in traffic safety.

Mr. Falvo asked Mr. Ney to address the Board's concerns regarding traffic volume and whether the traffic study took into consideration summer traffic and track traffic. Mr. Ney gave a brief history of the traffic counts, when they were taken and how they were updated. Mr. Falvo submitted a Memorandum of Dec. 6, 2012 which was marked as **Exhibit A-10.**

Mr. Ney continued testimony concerning additional traffic data that had been prepared in response to the Board's requests, how the traffic data was obtained and analyzed, data obtained in 2003 that provided traffic counts in August during summer and track traffic as well as Fort Monmouth which was still operating, the levels of service on Saturdays, cues, 90% stacking meaning 4 or less most of the time so no significant stacking. Mr. Whitson asked over what period was data taken, a week? Mr. Ney answered 1 hour. Mr. Whitson and Chairman Widdis asked additional questions about how that would accurately reflect the data. Mr. Ney gave an explanation on the theory of traffic studies and how the data provides the conclusions that were made because the data was taken at peak hour. There was an at length discussion as some members commented that they didn't believe the data correctly reflected based on their knowledge of the location.

Mr. Rached addressed the Board and stated that he had reviewed the data and information prepared by Mr. Ney and explained to the Board why the Board should accept the data on trip generation that was submitted, advised that Mr. Ney had taken a conservative approach, provided specific examples for the Board to have a comparison, and gave a detailed perspective of the testimony and data provided by Mr. Ney and his own opinion that the development would probably generate less trip generation than was calculated by Mr. Ney and his recommendation that the Board's focus on the safety, configuration and design of the driveway including lanes, lanes sizes and movements/

Chairman Widdis asked Mr. Rached if there was any difference with retail and what retail was used. Mr. Rached advised that Mr. Ney applied the NJDOT policy for trip generation analysis and that his methodology was more conservative and provided a number higher than was realistic for the proposed development and gave an example between 2 types of retail developments and what they would generate. Mr. Ney added that in addition it was mixed residential and that based on his experience he believed the development would generate much less and that the study was based on high numbers. Mr. Ney commented that yes, he had used the higher numbers as they their intent was to portray a worst case scenario.

Mr. Ney continued that the first plan was the plan preferred but provided the Board with an alternate plan as requested that would prohibit left turn movements. Mr. Ney advised that his report was based on a right in, right out and left in and reviewed the levels of service based on that option, directed them to the portion of the report that addressed the alternate option and reviewed its level of service. Mr. Ney also discussed the site distances both stopping site distance as well as adjustment of speed site distance and either way they had adequate site distance in response to item 1 of Sergeant Kelly's report. Mr. Ney summarized again why the hour(s) provided were selected. Mr. Ney stated that they were seeking a full movement entrance/exit which was a preferred from a business perspective.

Chairman Widdis asked how the traffic at the track peak time of the day, say 11-1pm, would impact the cue lane for those coming out of the shopping center. Mr. Ney answered about a car every change of the signal and the right turn out volume on a Saturday and gave the figures. Chairman Widdis asked about the left turn to go south. Mr. Ney answered that the numbers for that movement were the lowest in the study as there was very little housing until Route 36. There was additional discussion on the assumptions and projections for those movements.

Mr. Rached commented that he noticed the traffic light was not set up for motion detection and that it may be an opportunity to request the County to update the intersection in light of the developer's $27,000 fees that were made to the County for improvement to the intersection. Mr. White commented that the problem was that the light was done as a temporary many years ago and was just a span wire.

Mr. Whitson asked referring to A-7 if there was a car positioned in the left turn lane into the center that had to wait to turn due to traffic were they in fact blocking a car waiting to make a left turn out. Mr. Ney responded that the exiting car would have to wait for the same traffic to clear before making the turn.

Mr. Whitson stated the left in turn blocked the left turn out. Mr. Ney gave examples of other locations having the same movements. Mr. Whitson asked how many accidents happened at those other locations which Mr. Ney answered he did not know. There was additional discussion on what creates accidents, the striping, traffic lights.

Board member Fichter entered meeting at 9:00 p.m.

Mr. Kleiberg commented that he travels through the location and gave examples of experiences with backups at the intersection in summer and why he believed the left turn movements would be a problem.

Ms. DeSousa asked if A-7 was a full movement or had any restrictions. Mr. Ney answered A-7 was a left turn out restricted and what his analysis was based on and was prepared at the Board's request.

Mr. McCarthy commented that it was his experience that traffic didn't move in economic regularity but came in pulses and that the site could have no one in cue and then have 5-6 cars suddenly and then persons trying to push through the intersection. Mr. Ney agreed that there would be times when there was a cue and would have to wait for traffic to pass and other times when just able to make the left with no one in cue and no problems. Mr. McCarthy stated he had no problem with the cue within the shopping center but had a problem with cues on Port Au Peck Avenue and explained further how the numbers showed the flow based upon the analysis and that there would not be a cueing issue at the site 95% of the time.

Mr. Savarese commented that he was pleased with the no left turn out and that it made sense but he also thought shouldn't something be done with the island to stop the left turn out and was told yes, they would make that change. Mr. Savarese commented that people become educated and would go out the E. Main Street exit rather than sit at the Port Au Peck exit. Mr. Savarese added that the site couldn't be compared with major highways but the site would have peak hours and that track traffic would be using the shopping center especially if it had a restaurant. There was discussion about the volume generated from that which Mr. Ney responded would actually be less than the projected data.

Mr. Falvo conferred with experts and commented that they could consider that but the retailers want to get everyone in to the area and that people would find a way to get out and gave a scenario. Mr. Falvo then discussed the intersection work and surrounding development and what Monmouth County had advised they were planning and had requested from them and that the light was based on time and not actuated. Mr. Falvo added that his client had invested a lot of money and that all the potential tenants want the full movement entrance on Port Au Peck but if the Board wanted no left turn out they would adjust but suggested the town go to the County to get the light changed to actuate and that would address the concern of stacking for the left turn in. Mr. Falvo urged the Board to give the project the opportunity to survive before the locals consider it to difficult to get into.

Chairman Widdis opened the meeting to questions or comments from the public.

PUBLIC:

Henry Schultz, 40 Iselin Lane, submitted and described 3 photographs taken by him that day which were marked as **Exhibit P-1.** Mr. Schultz commented that he appreciated the experts that had testified, expressed concern with their statements. Mr. Wopat asked Mr. Schultz if he had a question and was told no. As there was no other members of the public, Mr. Wopat invited Mr. Schultz back for his statement. Mr. Schultz stated that the experts do not live in Oceanport, that Port Au Peck Avenue was a main thorough fare for not just Oceanport but beach traffic and other surrounding towns and because he lives across from the site he sees the traffic and it backs up way past the site. Mr. Schultz continued that he disagreed with the developers statements that they need it for the tenants and thought that it was not right that they be allowed to come back and change what had been approved previously and that it should have been requested back at the first application and he disagreed with the application because of the density of the area and the density of the traffic and anyone heading east to go to the shopping center with a lane for only 1 or 2 cars to cue there would be additional cars backed up to the intersection and that the shopping center already had 2 entrance/exits and that the requested entrance/exit would be a mess.

Mr. Falvo addressed Mr. Schultz's comments concerning the striping shown. Mr. Falvo asked if the Board's expert had any comments.

Mr. Rached stated he appreciated the public's comments but pointed out to the Board and the public that the traffic going eastbound had to enter the site via a left turn whether at E. Main or directly into the driveway so the change would not add any additional traffic to the development, he disagreed with Mr. Ney's testimony and agreed with the Board that the left turn out should be restricted but he was comfortable with the design for the left turn in which was based on the numbers with a slight adjustment to the design.

Mr. Whitson asked was there already a left turn onto E. Main Street. There was discussion about the fact that vehicles could turn left at the traffic light to get to the site via E. Main Street so why the need for the 2nd entrance off of Port Au Peck Ave. Mr. Falvo countered with the scenario of a vehicle coming west on Port Au Peck Ave. Mr. Ney added that if they allow a right turn in and no left turn in, vehicles were going to turn in through the right turn in lane and it was his opinion that to do so would create a safety hazard.

As no one from the public wished to be heard Chairman Widdis closed that portion of the meeting.

Chairman Widdis asked Mr. Falvo for some guidance as to what they were proposing for the Board to consider. Mr. Falvo answered they were requesting a right in and right out and a left in as depicted on A-7 with an adjustment of the left turn cue lane to provide room for 2 vehicles and requested the Board's vote on that option.

Mr. Whitson asked if the comments from traffic safety had any legal weight that should be considered. There was some discussion on that issue with no resolution.

Mr. Falvo added that on the right out they would modify the island slightly to force the right turn out.

Ms. DeSousa asked if there were a restricted left out how would one exit and was told from the end of the center to make left out around the center island on E. Main Street.

Chairman Widdis advised Mr. Falvo that Mr. Savarese and Mr. Fichter would not be voting as they had not been present for all hearings and asked the Board for a motion.

Mr. Whitson made a motion that the application as stated be denied for concerns presented by the Oceanport Police Department, First Aid Squad, striping would not resolve the problems, the development of Monmouth Park and its future volume's impact, the fact that Monmouth County according to Mr. Falvo would be redesigning the intersection but there was nothing provided to show what it would look like and did not agree with the reduction of the bicycle lane which was seconded by Mr. Kleiberg. Mr. Sullivan commented that he agreed with the proposal and thought there was plenty of room.

Ms. Smith called the roll:

Mr. Kahle commented that he agreed with Mr. Whitson.

Councilman Johnson stated he agreed that the left turn lane in was a safety issue and that he would prefer a right in right out but not what was proposed.

Mr. Kleiberg commented that Route 35 and Newman Springs Road was an example and that people would figure a way in and a way out if there were good stores or good restaurants.

Ms. DeSousa commented that she thought that the left turn out restriction was sufficient based on the testimony of the Applicant's experts.

Chairman Widdis stated that the testimony was important and that it could have worked.

AYES:	Mr. Whitson, Mr. Kahle, Mr. McCarthy, Councilman Johnson, Mr. Kleiberg
NAYES:	Mr. Sullivan, Ms. DeSousa, Mr. Widdis
ABSTAIN:	None
ABSENT:	Mr. Fichter
INELIGIBLE:	Mr. Savarese

Ms. Smith stated the motion carried.

Mr. Falvo asked if the Board would reconsider the alternate proposal for a driveway with right in and right out with a pork-chop island that would restrict left turns in or out.

There was discussion on how the Board should consider the request and whether or not the revised proposal could be considered. Mr. Falvo submitted that the application was for amended site plan and not for any variances and made the alternate proposal based on the comments from the Board and respectfully disagreed with Mr. Wopat.

Mr. Kleiberg stated as he understood it he could make a motion to approve the alternate proposal for a driveway with only right in and right out. Chairman Widdis questioned the legality which Mr. Wopat advised was within the Board's discretion.

Mr. Kleiberg made a motion to approve the alternate design for a driveway with only right in and right out with a pork chop shaped island that would restrict the left turns in or out and subject to the Engineer's review which was seconded by Mr. Whitson and received the following roll call:

AYES:	Mr. Whitson, Mr. Kahle, Mr. McCarthy, Councilman Johnson, Mr. Kleiberg, Mr. Sullivan, Ms. DeSousa, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	None
INELIGIBLE:	Mr. Savarese, Mr. Fichter

Ms. Smith stated the motion carried

RESOLUTIONS:

1. PB2012-12 – 477 Driveway. As the Resolution was made available to the Board previously, Ms. Smith summarized the Resolution after which Mr. Sullivan made a motion to approve the resolution which was seconded by Councilman Johnson and received the following roll call:

AYES:	Mr. Whitson, Mr. Kahle, Mr. McCarthy, Councilman Johnson, Mr. Sullivan, Ms. DeSousa, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Kleiberg (exited at 9:46 pm)
INELIGIBLE:	Mr. Savarese, Mr. Fichter

Ms. Smith stated the motion carried.

2. PB2012-15 – 167 Monmouth Blvd. As the Resolution was made available to the Board previously, Ms. Smith summarized the Resolution after which Councilman Johnson made a

motion to approve the resolution which was seconded by Mr. Sullivan and received the following roll call:

AYES:	Mr. Whitson, Mr. Kahle, Mr. McCarthy, Councilman Johnson, Mr. Kleiberg (re-entered at 9:48pm), Mr. Sullivan, Ms. DeSousa, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	None
INELIGIBLE:	Mr. Savarese, Mr. Fichter

PETITIONS FROM THE PUBLIC: Chairman Widdis opened the meeting to Petitions from the Public and as no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 9:50 p.m. on a motion by Mr. Whitson which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary