

**OCEANPORT PLANNING BOARD
MINUTES
December 10, 2013**

Chairman Widdis called the meeting to order at 7:30 p.m. and gave the Statement of Compliance with the Open Public Meetings Act: "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 17, 2013, and by the posting of same on the municipal bulletin board and Borough Web Site."

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mr. McCarthy, Mr. Kleiberg, Mr. Sullivan, Mr. Whitson, Mr. Fichter, Mr. Widdis

MEMBERS ABSENT: Mr. Kahle, Mr. Savarese, Ms. DeSousa, Mr. Gruskos

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

BOARD BUSINESS:

1. Ms. Smith advised the Minutes of September 24, 2013 would be ready for review and approval at next regular meeting.
2. Minutes of the meeting of October 22, 2013 were approved as presented on a motion from Mr. Whitson and a second from Mr. Fichter and approved by the eligible Board members

OLD BUSINESS:

1. PB2012-14.1 Village Center LLC **CARRIED from Nov. 26, 2013 MEETING**
Block 88, Lot 26.01
Request for Site Plan Amendment with Variances

As there were only 4 eligible Board members to continue hearing the application, the Applicant requested that the matter be carried to the January 14, 2014 meeting in the hope that additional members would be eligible to hear with no additional notice required. Mr. Falvo, Attorney for the Applicant, executed a Consent to An Extension of Time for Decision through to January 14, 2014.

NEW BUSINESS:

2. PB2013-07 – Rescinio, Susan & Michael **CARRIED from Nov. 26, 2013 MEETING**
32 Morris Place
Block 61, Lot 10
Request for Use and Bulk Variances

A-1 Location Survey prepared by James B. Goddard, P.L.S. dated April 25, 2012 and last revised December 9, 2013.

A-2 Aerial Photograph provided by Monmouth County GIS taken in 1961.

A-3 Architect Rendering of Elevations, 1 Sheet, prepared by Robert M. Braun, AIA, dated November 1, 2013

Pasquale Menna, Attorney for the Applicant, stated that jurisdiction had been attained and carried at the last meeting. Mr. Menna stated that there was an amendment to the plan previously submitted and that the amended plan had been prepared to show technical information concerning the average front and rear setbacks and that the plan had been submitted to the Secretary previously.

Mr. Menna continued with an introduction of the history of the subject property, the technical use variance for a second principal dwelling on the property for the expansion of a non-conforming use due to improvements being made to the structure to elevate the property in response to damage incurred by Super Storm Sandy.

Michael Rescinio, Applicant and Property Owner, was sworn in. Borough Engineer William White was also sworn in.

Mr. Rescinio testified to the ownership of the property, the conditions and structures that existed at the property when it was purchased, the use of the structure as a rental building in the past and then as a guest cottage in the last 10 years, the flood damage incurred during Super Storm Sandy, the application for a building permit to repair the structure which was denied as the structure needed to be raised to comply with the Borough's ordinance, that there were no changes to the footprint or square footage of the structure, the proposed change was solely the elevation of the structure and that there would be no changes in the grading of the lot.

Mr. White asked if there would be parking underneath the structure and was told yes, it would be elevated high enough to have a garage underneath. Mr. White stated that the structure was a 2nd principle structure that was being expanded because of the need to elevate.

Chairman Widdis asked what would the space be used for and would it be for the entire footprint. Mr. White commented that the plans indicated a split level. Chairman Widdis asked what was the front elevation – facing the street and was told yes. There was additional discussion on the dimensions and use of the area for parking of a single car only. Chairman Widdis asked what was the first floor elevation and was told 11.4. Chairman Widdis asked there would be no living space and was told correct.

Chairman Widdis opened the meeting to questions from the public on that witness only.

PUBLIC:

Marlene Anson, 1 Shapen Way, was sworn in and asked questions about the grading and concern that the grading not cause any flooding onto her property. Mr. Menna responded that the Applicant would stipulate and would agree to a condition of approval that the grading would not change.

Allison Coffin, Professional Planner for the Applicant, was sworn in and presented her qualifications and was accepted by the Board as an expert for planning. Ms. Coffin testified that she had reviewed the Borough's Master Plan and was familiar with the property, described the relief being sought for a technical D-2 variance as the second principle structure was an existing non-conforming use, her opinion that special reasons existed for granting of the variance with no detriments to the health, safety and welfare of the public, there was no change to the overall density and despite the elevating of the structure it would remain smaller than the first principle structure and that there would be no negative impacts to the overall intent of the Master Plan.

Chairman Widdis asked about the function of the structure, was the rear deck new and was told no, and that the height would be 23.2'.

Mr. Fichter stated that the house was being raised and asked if there would be any other use of the garage area for storage or other rooms, asked if the garage was the full footprint of the rest of the house, would there be a firewall, and what would the rest of the area be used for and was told storage. There was additional discussion ensued on the characteristics of the space, use and access, the type of foundation and the finished appearance of the foundation to comply with the ordinance for maximum exposed foundation.

Chairman Widdis asked what the overall increase in height amounted to and was told approximately 4.5'. Discussion ensued on the existing grade, existing first floor and total increase in height.

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

PUBLIC:

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

Chairman Widdis requested that the lighting on the rear deck be addressed so as not to be offensive to the neighbors. Chairman Widdis asked if there were stairs off the deck and was told no but that there may be stairs needed.

Mr. Sullivan made a motion to approve the application which was seconded by Mr. McCarthy. Mr. Whitson asked that a condition be made concerning the grading and drainage. The motion received the following roll call:

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

Ms. Smith stated the motion carried.

3. PB2013-09 – Fontanella, Joseph & Beverly
165 Monmouth Boulevard
Block 71, Lots 3 & 3.01
Request for Bulk Variances for # of Stories and Side Yard Setback

- A-1** Survey of Property prepared by Russell Palubniak, P.L.S., dated May 22, 2006.
- A-2** NJDEP Plan, prepared by Elizabeth Waterbury, P.E., P.P. dated May 9, 2012
- A-3** Letter of Substantial Damage from Sal Massaro, Construction Official dated January 26, 2013.
- A-4** Survey of Foundation prepared by Seneca Surveying, James Kuhn, dated Nov. 11, 2013
- A-5** Building Permit issued February 13, 2013
- A-6** Letter by John Bier, Builder dated November 10, 2013
- A-7** Foundation Plan prepared by Anthony Condouris, AIA dated January 30, 2013 and date stamped received by the Construction Department February 26, 2013
- A-8** Elevation Certificate prepared by James Kuhn, L.S. Seneca Surveying dated Sept. 5, 2013
- A-9** Modular Home Plan, 7 Sheets, prepared by Two Rivers Construction
- A-10** Architectural Plans, 3 Sheets, prepared by Anthony Condouris, AIA, dated September 25, 2013

Joseph Fontanell and Beverly Spadavecchia Fontanella, Applicants and Owners, were sworn in.

Ron Gasierowski, Attorney for the adjacent neighbor, the Millers, objected to the application and the variances being sought. Mr. Gasierowski presented his argument that the Fontanella application was not complete as there was not a plan on file depicting the variances being sought and therefore argued that the Board could not hear the application.

Mr. Fontanella described the plot plan showing the proposed footprint. Chairman Widdis asked Mr. Fontanella to begin by describing the documents for the record.

Mr. Denoia interjected and addressing Mr. Gasierowski stated that he had reviewed the notice and that it was the Board's position that it was in order and that the Board had jurisdiction and could proceed with the hearing.

Mr. Gasierowski objected the determination of notice order and argued that the hearing could be noticed 2 ways one being by personal service and argued that the incorrect plan was provided with the notice and that the latest notice did not reference the plan or provide a plan and that it was confusing to the public. Mrs. Fontanella responded with an explanation of how the service was performed and the explanation given to those receiving the certified mail notice.

Chairman Widdis asked them to proceed with describing of the exhibits.

Mr. Fontanella asked if the Secretary had Architectural Plans prepared by Anthony Condouris, AIA, 3 pages. There was discussion on what documents had been submitted to the Board. Board Member Whitson commented that he could not read the plans provided.

Mr. Gasierowski asked if that plan was the one on file as he had made an OPRA request and didn't receive the plan being discussed.

Mrs. Fontanella stated that the plan was submitted to the Board on November 27th.

Mr. Fontanella gave a history of the process to reconstruct their home after incurring Super Storm Sandy damage, difficulty with a contractor, the different plans that had been created first of a stick built and then a prefab home. The original contractor left without completing the work and the house sat for 4 months and because the original contractor scammed them by taking the money and not performing the work, underbid the project, leaving them with less money to make the repairs, their request to receive Sandy funding to help finish the home. Mr. Fontanella then explained why the plans changed to a modular house that would fit on the foundation that had been built. There project was nearly complete when the neighbor objected to the change in the house and that it was no longer a must but a choice to leave the foundation where it was but it was the Applicant's opinion that the project was covered by the variance waiver statute by the Governor and that they built what they had permits for before the issues with the neighbor presented.

Chairman Widdis asked about a survey that did not have a date.

Mr. Fontanella introduced a Survey of Property prepared by Russell Faluvian dated May 22, 2006 which was marked as **Exhibit A-1**, a Topographic Survey prepared by Elizabeth Waterbury dated August 9, 2012 which was marked as **Exhibit A-2**, a Letter of Substantial Damage from Sal Massaro, Construction Official dated January 26, 2013 which was marked as **Exhibit A-3**.

Mr. Gasierowski challenged the purpose of Exhibit A-3 which was for the original house which was completely torn down and what was its relevance other than cluttering the record.

Mr. Fontanella responded that the letter was the standard that they were required to build to and that everything that was built was done by permit.

Mr. DeNoia stated that Mr. Fontanella had the right to submit for the record what he felt was necessary for the record.

Mr. Fontanella continued with a summary of the various flood map changes, base flood elevations, etc.

Chairman Widdis asked what was the document the Board had prepared by James Huhn.

Mr. Fontanella answered that it was the most recent survey of the site and depicted the as-built location of the foundation and described a Survey of Foundation prepared by Seneca Surveying, James Kuhn, dated Nov. 11, 2013 which was marked as **Exhibit A-4**. Mr. Fontanella introduced a copy of the building permit that was issued for the project dated February 13, 2013 and was marked as **Exhibit A-5**. Mr. Gasierowski asked wasn't that for the original house and was told yes. Mr. Fontanella introduced a Letter by John Bier, Builder dated November 10, 2013 which was marked as **Exhibit A-6**; a Foundation Plan prepared by Anthony Condouris, AIA dated January 30, 2013 and date stamped received by the Construction Department February 26, 2013 which was marked as **Exhibit A-7**.

Mr. Kleiberg asked if they had a building permit for the modular home. Mr. White answered no. Mr. Fontanella answered that they wanted to deal with the variance issue first.

Mrs. Fontanella added that with the constant interruptions about the house itself being there and torn down, it was their opinion that Sandy storm covered damage or destroyed – they didn't realize initially that the house was destroyed but it was destroyed by Sandy and they feel like all of the permits were issued properly and that the testimony was to document their steps to comply with the codes but all along Sandy storm the legislation says damaged and destroyed and found it questionable why that kept being presented – they didn't choose to build a new home.

Chairman Widdis surmised that that was why they asked for the documents to be described specifically to establish that record.

Mr. Gasierowski conversed on the fact that one of the plans describes an addition but the testimony was that they renovated and reconstruct the existing house. Mr. DeNoia interjected that they were establishing the record and that the bottom line was they had the right to establish the history. Discussion ensued on what the original plan was and why it had been amended. Mrs. Fontanella added to the record that the plan changed because builders had told them the original structure could not be saved.

Mr. Fontanella introduced an Elevation Certificate prepared by James Kuhn, Seneca Surveying dated September 5, 2006 which was marked as **Exhibit A-8** and documents the first floor elevation. Chairman Widdis asked about another document provided to the Board - Two Rivers Construction Excel Homes which was the modular portion of the structure was described and marked as **Exhibit A-9** and was introduced to demonstrate the height. There was discussion on what plan showed what the proposed house would look like for which Mr. Fontanella introduced Architectural Plans, 3 Sheets, prepared by Anthony Condouris dated September 25, 2013 which was marked as **Exhibit A-10**. There was discussion on Exhibit A-10 and the copies provided to the Board which were illegible and A-9 and what each document showed. There was concern expressed by the Board that the most important document was not legible and whether to proceed.

At the request of the Applicant the Board adjourned for a 5-minute recess.

Upon return the Applicant requested that the hearing be adjourned to the next meeting date and asked the Board what they would want to see on the plan. The Board discussed and requested grading information, an elevation shot of the center of the road, a larger scale A-10 and then consented to the matter being carried to the January 14, 2014 meeting with no new notice required and the Applicant was to provide new plans at a scale that was legible.

Priscilla Jack, 163 Monmouth Blvd., next door neighbor, attempting to sell her home and stated she would appreciate it if there would be some resolution soon.

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 9:28 p.m. on a motion by Mr. Whitson which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary