BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● NOVEMBER 24, 2020

Regular **REMOTE/VIRTUAL** **7:30 PM**

Municipal Building, 315 E. Main Street, Oceanport, NJ 07757

I. Call to Order: Chairman Widdis called the meeting to order at 7:30 PM

II. General Statement: Chairman Widdis advised 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 meeting complies with the Open Public Meetings Act by adequate notification on January 15, 2020 of this location, date and time to the Asbury Park Press and to the LINK News and by the posting of same on the municipal bulletin board and Borough's Web Site. This meeting further complies with the Open Public Meetings Act by adequate notification on October 6, 2020 of this virtual/remote meeting and its location, date and time to the Asbury Park Press and the Star Ledger and by the posting of same on the municipal bulletin board and Borough's Web Site. Chairman Widdis 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 advertisement.

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	Remote	
Thomas Tvrdik	Class III	Remote	
Joseph Foster	Environmental Committee Liaison	Remote	
John (Jack) Kahle	Class IV	Absent	
Michael Savarese	Class IV	Absent	
Robert Kleiberg	Class IV	Remote	
Darren Davis	Class IV	Remote	
Michael Dailey	Alternate I	Remote	
Jacob Rue	Alternate II	Absent	
Jeanne Smith	Board Secretary	Remote	
Kevin Kennedy	Board Attorney	Remote	
William White	Board Engineer/Planner	Remote	

VI. Board Business:

1. Report of Pending Applications – Ms. Smith advised of upcoming applications for the December 8th meeting – Allison Hall parcel and bulk variance for single family lot on Revere Drive. One application – Fort Monmouth Lodging Parcel scheduled for December 22nd meeting and provided a brief summary of the application for 180 residential units.

   Due to the volume of pending applications, there was discussion on whether to add a 3rd meeting in December. After which consensus was to add a 3rd meeting in December with Ms. Smith to work out a date with the Board's professionals and their availability.

Chairman Widdis reviewed the remainder of the agenda advising that he would like to change the order to take the application for Phil Greene first with no objections from the Board.

2. Referral from Governing Body - Zoning Ordinance Amendment

Borough Planner Kendra Lelie described the referral from the Governing Body for Ordinance #1030 – and the Planning Board's role to determine if the ordinance introduced was consistent with the Borough's Master Plan; provided the history of the committee and process to overhaul the outdated portions of the code, group all land use related ordinances into one comprehensive Code and user friendly. She outlined the substance of changes to the Code but clarified that no changes were made to the Zoning Districts or Bulk Standards other than adding in the new districts for Fort Monmouth. She presented her opinion as to why the ordinance should be found consistent with the Master Plan as it meets the Master Plans Goals & Objectives and elements of the Land Use Element of the Master Plan.

Board members asked questions and offered comments that the ordinance be amended to address applications coming in for 3-story structures, issues of height for new construction and suggested changes. Mr. Davis commented at length the need for changes to remove the burden from Administration and residents for those unique situations where the grade is different and gave the example of the lot on Branch Ave that dips down below street grade; he also discussed the issue of pre-existing non-conforming lots that have to come before the Board even though they met all the bulk requirements. There was discussion but not resolved and agreed that further discussion and review was needed.

Ms. Lelie agreed and stated that the suggestions did seem of a substantive nature and would be best to look at later – the ordinance is a living record that can and should be updated and the Planning Board's role is to make recommendations for that.

Mr. White commented the revisions were discussed over the last few meetings by the Committee and his opinion is that it is consistent with the Master Plan. He suggested that Board members email the Board Secretary with items that come up so a list could be maintained.

Motion Determining Ordinance #1030 Consistent with Master Plan

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

VIII. New Business: Agenda order changed by Chairman

1. PB2020-25 Greene, Philip

5 Brookview Drive
Block 142, Lot 51
Bulk variance for fence installation along secondary front yard

EXHIBITS:
A-1 Land Development Application
A-2 Survey of Property prepared by Charles Surmonte, PE, POS, dated Aug. 4, 2020
A-3 Survey of Property prepared by Charles Surmonte, PE, POS, dated Aug. 4, 2020 (with handwritten notations)
A-4 Photographs of subject property and surrounding homes/yards

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. Kennedy described and marked Exhibits A-1, A-2, A-3 and A-4. As there were no objections to the notice Mr. Kennedy advised he and the Secretary had reviewed and found the notice had a slight, non-conforming nature but due to the nature of the application it was discussed with the Applicant who advised he would deal with any jurisdictional issues and was permitted to proceed.

The following persons were sworn in: William White, Board Engineer/Planner and Philip and Renee Greene, Owner/Applicant.

Mr. Greene described the proposed application to install a 6' solid vinyl fence on the side yard and second frontage of his property along Main Street as they have young children and concerned for their safety adjacent to the busy Main Street. Mr. Greene also provided details on the location of the proposed fence and setbacks off the property lines – from the corner of the garage it would be 15' and along Main Street would be 22' from the curb and in the rear would be right on the property line and the southerly property line would be 8' where electrical meter was.

Mr. White commented that the Applicant is compliant with all other sides and the Board's review should be focused on the portion along Main Street which is where the variance is needed. The fence scales to 6' from the property line.

Mr. Greene also testified that the gate would be 4' wide.

Chairman Widdis invited questions from the Board.

Ms. Cooper asked if there would be a gate on the other side and was told no, just a panel.

Mr. Davis commented that it was prudent to put the fence up with 2 kids there and asked if it would be wood or vinyl and was told vinyl.

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

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

Motion to Approve Application

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

VII. Old Business:

1. PB2020-16 Kelly, Thomas

75 Horseneck Point Road
Block 132, Lot 8
Variances for construction of an addition
CARRIED from October 20, 2020

EXHIBITS
A-6 Illustrated Survey, prepared by CC Widdis, Surveying, LLC, dated June 15, 2018, with illustrated hand notations set forth thereon, received by the Borough of Oceanport on November 3, 2020.

Mr. Kennedy confirmed that Mr. Widdis was not present at the last meeting, however, had certified that he listened to the hearing and was eligible to vote on the matter. Ms. Smith advised that Mr. Dailey was eligible to participate in the hearing but not vote.

Mr. Kennedy described and marked Exhibit A-6 – illustrated survey with hand notations.

Thomas Kelly, Applicant/Owner, remaining under oath from the last hearing, described the revisions to the plan made in response to the last hearing to address Board concerns and comments including reduction of the driveway to be compliant and reduces the impervious coverage to 39.8% which was self-calculated. Mr. White confirmed that he had checked the numbers and found them correct. Mr. Kelly continued to describe the existing rear deck, 14x30 and the proposed additional rear deck, 6'x30', the existing part of the house has 1 ½ stories and would be raised to be 2 stories, height is 34.3' - under maximum of 35'; the existing portion at the rear of the house would have no changes. The hash marks on plan denote pea stone that will be converted back to grass.
Chairman Widdis asked where the mechanics were stored for the property. Mr. Kelly answered they only use wall units for air conditioning.
Mr. Kelly, Chairman Widdis and Mr. White next reviewed the variances needed including minimum lot area of 9,375 s.f. where 12,000 s.f. required; minimum lot width of 50' existing where 120' required, minimum front yard setback of 7' existing where 15' required for unimproved right of way frontage, maximum building coverage for 28.03' where 25% permitted, east side yard setback of 8.34' existing where 10' required, average front yard setback from Horseneck Point Road of 111.89' required, 72.26' proposed; no longer needs the impervious coverage as the revisions brough the plan below the maximum 37%, average rear setback 30.6', existing house at 31' and added deck to 25'.

Mr. Kelly further testified that the house was a 1 bedroom/1bath and the addition will provide for 2 additional bedrooms and a bath upstairs and a 1-car garage with storage.
Chairman Widdis asked why the request for the additional 6' of deck. Mr. Kelly responded his backyard drops off on grade with weeds and the deck would improve the aesthetic. Mr. White responded that the variance would go away if the additional 6' deck was removed from the plan.
Chairman Widdis invited comments from the Board.
Mr. Whitson asked if the driveway reduction was on the right of way side and who has the authority to remove that. There was discussion that the removal of items from the right of way was a separate matter for Mayor & Council.
Mr. Foster asked for confirmation that the impervious coverage is now compliant which Mr. White advised yes.
Mr. Davis asked why the driveway ran up the side of the house. Mr. Kelly responded for storage. Mr. Davis asked if the grading plan had been done requested last meeting. Mr. Kelly responded that the property is fairly flat from street to proposed addition. Mr. White stated he didn't see any problem with drainage.
Chairman Widdis revisited the additional deck and what variances would be eliminated if it were removed. Mr. White responded the maximum building coverage and the average rear setback.
Mr. Davis asked if the driveway on the side being used for storage what would be used for screening. Mr. Kelly responded that there's a number of trees there already. There was discussion about what to put in that area to screen after which the Applicant agreed to install a 6' fence from the front of the building to 10' beyond the rear of the building.
Mr. Davis suggested that the Applicant also include a location for the HVAC a.c condenser or he'd need to return to the Board. There was discussion on best place for it and it was decided in the front side of the house which the Applicant agreed and a variance for accessory in the front yard was added to the application with the understanding that the new ordinance would eliminate that need if it became effective prior to the Applicant's construction.

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

Mr. White commented that there had been a lot of back and forth and requested that any approval be conditioned upon submitting a new engineer plan signed and sealed to certify the numbers and grading.

Chairman Widdis commented that any lighting installed be attentive to not spill over to any neighbors which the Applicant agreed to comply.

Chairman Widdis added that he would like to see the additional 6' deck removed from the application which some Board members agreed. Mr. Kelly stated he really wanted it but agreed to remove it from the application and revised plans be prepared for resolution compliance.

PUBLIC: Chairman Widdis opened the meeting to comments 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 and With Conditions

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

VIII. New Business:

2. PB2020-20 Padula

161 Monmouth Blvd
Block 71, Lot 1.02
Variance Relief for Construction of new single-family home

EXHIBITS:
A-1 Land Development Application
A-2 Plans, 6 Sheets, prepared by Shore Point Architecture, last revised July 6, 2020
A-3 Plot Plan, 4 Sheets, prepared by InSite Engineering, LLC, dated October 11, 2020

A-4 Maser Consulting Review Letter dated November 16, 2020
A-5 Illustrated Plot Plan/Aerial prepared by InSite Engineering, LLC, dated November 24, 2020
A-6 Illustrated Rendering prepared by Shore Point Architecture dated Nov. 24, 2020
A-7 Building Section Details prepared by Shore Point Architecture dated Nov. 24, 2020

Mr. Kennedy stated that this application was requesting a "d" variance for the height because it sought greater than 10% of the permitted height and therefore two members would recuse to create the zoning board. However, Ms. Krimko, Applicant's Attorney has advised that there would be a request to revise the application to reduce the height and eliminate the need for a "d" variance.

Jennifer Krimko appearing for the Applicant stated that due to the number of available members that while they believe they could justify the additional height, they are requesting to amend the application to reduce the height from 39.5' to 38.2' to move the application along which was accepted and changes the variance to a "c" type.

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 as Board Engineer/ Planner. Mr. Kennedy described and marked Exhibits A-1, A-2, A-3 and 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.

Ms. Krimko described and had marked Exhibits A-5, A-6 and A-7.

Mr. Davis disclosed that Ms. Krimko's firm does represent him on occasion but has no relationship with the Applicant and feels comfortable that he can participate.

Ms. Krimko introduced the experts that would be testifying.

Jason Fichter, Applicant's Engineer/Planner, was sworn in and having previously appeared before the Board was accepted by the Board as an expert in both fields. Mr. Fichter, referring to A-5, testified as to the characteristics of the property, its dimensions, location backing up to Blackberry Bay with a shoreline that dramatically collapses creating a zoning challenge, they have already obtained CAFRA approval; is located in a flood zone with base flood elevation 10. For compliance with flood damage prevention ordinance sets the first floor minimum at 12.4 with the proposed first floor designed at 14.67' to place all utilities and areas needed to be above that elevation. The roof pitch has been reduced for the main portion of the roof and creates attic space for storage which is critical for properties in flood zone without basements. All new utilities are planned, exempt from storm water management and able to direct runoff to the tidal waterbody at the rear of the lot, required off-street parking complies and the driveway configuration provides a safe turn-around as required by the County being the lot is on a county road.

Ms. Krimko summarized the variances requested are for height, front setback and average front and rear setbacks on the block. Ms. Krimko requested to pause Mr. Fichter's testimony to allow the architect to provide further details.

Steven Carlidge, Applicant's Architect, was sworn in, provided his qualifications and was accepted by the Board as an expert in architecture. Mr. Carlidge provided testimony referring to A-6, describing the proposed house of colonial style, 2-story, attic space was unfinished and would be used for storage, the siding would be a hardy-plank clapboard and the foundation would have a thin stone veneer, gables, roof and overhangs designed to break up the vertical lines, 3 dormers, windows, floor plans, garage and reviewed the elevation profiles. Displaying A-7, Mr. Carlidge walked through the heights and floor elevations and how the house was established vertically, being measured from the crown of the road. He testified that the first floor was set at 14.67 in order to provide a 2" for framing and an area for ductwork above the base flood. Mr. Carlidge also testified that the change in ridge of roof to lower the height would not be discernible to the eye.

Ms. Krimko acknowledged that the plans submitted show a lattice around the deck but they weren't committed so clarified that the base would have a decorative covering – not necessarily lattice.

Mr. Carlidge further described the total square footage of 6,230 finished s.f. with an approximate 1214 s.f. garage, and a shed in the yard for the owner's fishing gear.

Chairman Widdis invited questions from the Board.

Mr. Kleiberg asked if they had the height of the adjacent houses which Mr. Fichter would discuss later.

Mr. Davis asked about the rear chimney if it would drop along with the roof line and was told yes. Mr. Davis asked if the outdoor shower was covered which the plan did show.

Mr. Kleiberg asked if the shower would be connected to sanitary sewer and referred to Mr. Fichter later.

Chairman Widdis asked if the fireplace near the pool would have a chimney and was told was a gas fireplace as a fire pit.

Chairman Widdis asked about lighting. Mr. Claridge described the exterior lighting which would be shielded and directed downward, wall mounted and colonial style, and low voltage type. And yes the shed would have a light.

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

Mr. Fichter responded to questions regarding the pool equipment location would be in a compliant location and would be elevated and the shower drain connected to the sewer.

Chairman Widdis invited questions or comments from Mr. White and the Board for Mr. Fichter's engineering testimony.

Mr. White pointed out that the plan and testimony was for a lot of 1.07 acres and asked if it included areas below mean high tide. Mr. Fichter answered it was his understanding that it was. Mr. White commented that the survey prepared by Post calculates it at .89 acres and while it changes lot coverage numbers did not impact the need for variances.

PUBLIC: Chairman Widdis opened the meeting to questions only for this witness.

Stuart Kiely, 166 Monmouth Blvd, asked questions about the size of retaining wall and style of fence as they look directly at it from across the street. Ms. Krimko answered that the retaining wall would be 2 ½ ' high so wouldn't impact the view and the fence would be an open fence.

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

Mr. Fichter next provided planning testimony for the variances being requested – the height had been reduced below the "d" variance and sought 3.2' above the permitted 35' and based on the architect's testimony to provide for additional space for mechanicals and wood framing to be out of flood level, similar to others in the neighborhood; the grading outside the home dictates where the crawl space had to be set at 9.8'; its measured from the crown of the road which is well know for being low in that area and believes the design was the safest way to design for the flood zone. Mr. Fichter presented his proofs for the front yard setback under both C1 and C2 criteria arguing the shape of lot presents a challenge especially for the averages even though the lot is oversized it is disproportionate. They situated the home in such a way to balance the front and rear yard for sake of the streetscape they placed it in line with neighbors on either side. The average is based on the 200' to each side and the homes further to the west skew it because the mean high water line juts out for those lots and thus creates a hardship due the subject property's unique shape. The neighbor to the east only has a rear yard of 2' because of the sharp angle of the mean high water line. Mr. Fichter also testified that the they propose a fully compliant 6' fence that is an open fence but would provide limited visibility of the retaining wall which is only 2.5' at its peak and tapers down to nothing on both sides for no visual impact. The project advances the purposes of planning by being an appropriate development that benefits the general welfare, creates a safer structure and improves the Borough's FEMA rating system, secures safety from flood and reduces loss of life and property and helps protect the National Flood Insurance Fund, provides adequate light and open space and is located on an oversized lot. As for the building height, the roof peaks are located 47' and 78' from the respective neighbors. And the maximum building height is over a small portion of the roof. Lastly it preserves property values in the neighborhood and a significant improvement over the existing home. It was his professional opinion that the variances could be granted based on the C1 and C2 criteria and would not cause substantial detriment to the zone and that the benefits of the application substantially outweigh the negative.

Chairman Widdis invited questions from the Board.

Mr. Davis asked if there would be any screening for the platform to block the equipment from the neighbors. Ms. Krimko stated if the Board would approve they would commit to buffering it from the neighbors. Mr. Davis asked what material would be used for the retaining wall and asked that it be high end as the neighbors have to look at it.

Mr. Davis asked if the shed could be pushed back a bit to add landscape buffer. Mr. Fichter advised that the location was intentional to provide access. Ms. Krimko asked if the shed doesn't need any relief, it is conforming, they would prefer to leave it. Mr. Davis asked if they would put at least on the right side to buffer the neighbor. Ms. Krimko offered a couple of plantings.

Chairman Widdis recommended a different material than aluminum for the fence due to the salt air which they would take under consideration.

PUBLIC: Chairman Widdis opened the meeting to comments on the application.

Ms. Smith acknowledged an email from Rich Luick, 163 Monmouth Blvd, and read for the record their full support for the application.

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

Motion to Approve Application as Amended with Conditions

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

IX. Petitions from the Public: Chairman Widdis opened the meeting to Petitions from the Public. As no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

X. Adjournment: As there was no further business, the meeting was adjourned at 10:49 pm on a motion by Ms. Cooper which was seconded by Mr. Davis and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary