

**OCEANPORT PLANNING BOARD
MINUTES
SPECIAL MEETING
November 19, 2012**

Acting Chairman Whitson called the meeting to order at 7:31 p.m. and announced that the meeting had been advertised in accordance with the Open Public Meetings Act.

Acting Chairman Whitson led the flag salute.

MEMBERS PRESENT: Mr. Kahle, Councilman Johnson, Mr. Kleiberg, Mr. Sullivan, Mr. Fichter, Mr. Whitson

MEMBERS ABSENT: Mr. McCarthy, Mr. Savarese, Ms. DeSousa, Mr. Widdis

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

OLD BUSINESS: None

NEW BUSINESS:

1. PB2012-13 – Katzenberger, Nick & Gretchen
67 Seneca Place
Block 52, Lot 9
Request for Bulk Variance for Lot Width and Front Yard Setback for construction of new single-family dwelling

As not all parties were present, the Applicant requested that the Board proceed with any other business for which there were no objections from the Board

RESOLUTIONS:

1. PB2012-04 Meloni & Barone (Hill Court) - As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which Mr. McCarthy made a motion to approve the resolution which was seconded by Mr. Kleiberg and received the following roll call:

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

Ms. Smith stated the motion carried.

2. PB2012-09 Lazarus, James (32 Whitehall Circle) - As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which Councilman Johnson made a motion to approve the resolution which was seconded by Mr. McCarthy and received the following roll call:

AYES:	Mr. Whitson, Mr. McCarthy, Councilman Johnson, Mr. Kleiberg, Mr. Sullivan
NAYES:	None
ABSTAIN:	None

ABSENT: Mr. Savarese, Ms. DeSousa, Mr. Widdis
INELIGIBLE: Mr. Fichter, Mr. Kahle

Ms. Smith stated the motion carried.

NEW BUSINESS:

2. PB2012-13 – Katzenberger, Nick & Gretchen
67 Seneca Place
Block 52, Lot 9
Request for Bulk Variance for Lot Width and Front Yard Setback for construction of new single-family dwelling

- A-1 Photograph of Rear of Dwelling, taken October 31, 2012 by Mr. Katzenberger**
- A-2 Photograph of Water Line on Garage Door at Rear of Dwelling, taken week of October 30, 2012 by Mr. Katzenberger**
- A-3 Photograph of Water Line on Front Door of Dwelling, taken October 31, 2012 by Mr. Katzenberger**
- A-4 Floor Plans & Elevations, prepared by Richard Villano, P.A. AIA, dated September 25, 2012**
- A-5 Variance Plan, Lot 9, Block 52, prepared by Charles Surmonte PE & PLS, dated September 12, 2012, last revised November 16, 2012**
- A-6 Front Yard Setback Plan, North Side of Block 52, prepared by Charles Surmonte, PE & PLS, dated November 16, 2012**

Martin McGann, Attorney for the Applicant, appeared before the Board on behalf of and with the Applicant and Owner, Nicholas Katzenberger who was sworn in. Mr. McGann asked questions of Mr. Katzenberger including when the property was purchased, description and history of the property as the owner, the inability to purchase land from adjacent landowners to increase the width of the lot, a description of the home before and after Hurricane Sandy, the impacts of Hurricane Sandy to the property and home. Photographs depicting water levels were submitted and marked as **Exhibits A-1, A-2 and A-3.**

Mr. Katzenberger also testified that because of the storm water levels they desired to tear the house down and rebuild at a higher elevation. Mr. McGann submitted additional documents including a plan entitled Floor Plans & Elevations, prepared by Richard Villano, P.A. AIA, dated September 25, 2012 which was marked as **Exhibit A-4** and a plan entitled Variance Plan, Lot 9, Block 52, prepared by Charles Surmonte PE & PLS, dated September 12, 2012, last revised November 16, 2012 which was marked as **Exhibit A-5.** Mr. Katzenberger further testified concerning the front yard setback as it existed, as proposed and its relationship with other setbacks on adjoining properties, compliance with all other bulk setback requirements, accessory structures to remain in existing location, proposed elevations for first floor of 14', garage floor elevation of 10' and crawl space elevation of 10'.

Mr. White clarified for the record the correct lot width requirement for that zone was 120' not 100' to which Mr. McGann conceded. Mr. White questioned the location of the shed which would need a variance. Mr. McGann stated it was an existing condition and Mr. Katzenberger confirmed that they had no plans to change.

Mr. White asked questions about the proposed elevations and there was discussion on the appropriate elevation for the zone, the elevation of surrounding properties, the potential for the base flood elevation being modified in response to Hurricane Sandy event.

Mr. Kahle stated that the first floor was proposed for 14' and filling property about 3' and by doing that it changed how the elevation of the home was calculate – the height and raising the grade at the front of

the house from the street...Mr. Katzenberger commented that they had struggled with that – the overall height of the house within the ordinance of average front grade...Mr. Kahle asked if there was an ordinance that said they couldn't do that. Mr. White advised that those questions would be better for Mr. Surmonte as there was a plan that the Board should have received that he would testify about.

Charles Surmonte, PE & PLS, having appeared previously before the Board, was accepted by the Board and was sworn in. Mr. White was also sworn in as Board Engineer and Planner.

Mr. McGann asked questions of Mr. Surmonte concerning Exhibit A-5, the existing grades on the lot, the difference of about 4' in the proposed grade at the building corners and the grades at the property line, the proposal under the revised plan to incorporate a couple of retaining walls on each side of the building to break up the 4 – 4 ½ foot differential with the wall proposed 4' off of the building so then off the wall it would be about 10' to the building and only about a 1' of grade change from the base of the wall and the property line, described the proposed grades for the backyard to the house of about 5' and how that would be accomplished gradually, described the plan to address drainage and that gravel would be used for the driveway.

Mr. McGann submitted a plan entitled Front Yard Setback Plan, North Side of Block 52, prepared by Charles Surmonte, PE & PLS, dated November 16, 2012 which was marked as **Exhibit A-6**. Referring Exhibit A-6, Mr. Surmonte provided additional testimony concerning the average setbacks on the block/lots adjacent to the subject property and which lots were also undersized.

Mr. McGann asked Mr. Surmonte to address Mr. White's review letter and concerns expressed. Mr. Surmonte stated that he had spoken with Mr. White and deferred to Mr. White for any questions. Mr. White stated he was concerned with the 10% grade as it was fairly steep and with the material of the driveway being gravel his concern was heightened and that he preferred that the driveway be flattened to 7-8% which was typical design. There was additional discussion on the grade of the driveway. Mr. Whitson asked based on the height of the water at the worst point during the storm how much higher was the height of the finished floor. Mr. White answered 4'. Mr. Whitson asked then its 4' higher than the storm of the century. There was discussion on what the base flood elevation was for that area, what the town required, what was being proposed and how to determine an appropriate level at which to raise.

Mr. White then advised the Board of a caveat in the ordinance and read a portion of the ordinance regarding calculation of height and that mounding, terracing or other devices should not be included in the calculations for height and requested that the Board make a determination if the amount of infill being proposed was mounding or terracing.

Mr. Surmonte stated that the intent was not to provide a higher base grade by which to work as the house was not that tall and that the intent was not to increase the height of the house.

Mr. Whitson referring to Exhibit A-6 asked which of the 6 houses shown on the plan was the highest house and would the Applicant's house be the highest. There was a discussion between the Engineer and the Applicant but Mr. Surmonte stated that he was not sure as they had not measured the houses for height.

Mr. Whitson asked Mr. White if he had anything additional. Mr. White answered that those 2 items were his concerns and that the Board should make a decision on whether it was a height variance or not.

Councilman Johnson commented that he was concerned with the height but also understood the plight of the Applicant but the Board was concerned with the neighbors.

Mr. Fichter asked how the architect came up with the 7.65 average grade elevation. Mr. Surmonte answered that he provided it based on the additional grading plan and that the front yard grades on the newer plan would have a slightly higher average grade.

Mr. Kleiberg stated he would like to know the height elevation for Lots 12, 11, 10, 8 and 7 from the plan showing the average front setbacks.

Mr. Whitson read from Mr. White's letter a point concerning the retaining walls and associated fill that would block the swale which was on the Applicant's property and redirect runoff onto the adjacent properties and stated that he was concerned with the runoff onto adjacent properties. Mr. Surmonte stated that they had addressed that on the revised plan and Mr. White confirmed that the revised plan had addressed that to his satisfaction.

Mr. Kahle asked about the swales and the retaining walls and wouldn't it satisfy drainage. Mr. White answered on the Applicant's property yes but not necessarily the adjacent properties.

Acting Chairman Whitson asked if there were any additional questions for that witness and as there were none Mr. McGann continued with questions for Mr. Katzenberger about what the proposed elevations were for the application before the storm based on discussions between Mr. Surmonte and Mr. White, the impact of Hurricane Sandy and the Applicant's concerns that what was originally proposed would not be sufficient based on water levels after "Sandy" and asked the Board for guidance.

Mr. Sullivan commented that this wouldn't be the first request and that the Board shouldn't limit them too much. There was discussion between Mr. Sullivan, Mr. Whitson, Mr. McGann, Mr. White about elevations of neighboring properties, which houses were and were not affected, how high was not too high and how to balance.

Mr. Fichter commented that the difference was about 2' between average grade and proposed grade and that the mounding/terracing thing he could see, but if someone were mildly changing their grade they could benefit of it. Mr. McGann added that the Applicant's intent was not for that purpose but they wanted it to look good and that he agreed it was about 2' difference. Mr. Surmonte added that another concern was that the garage be somewhat safe from flooding.

Mr. Whitson stated that Mr. White testified that by his calculations the height of the house was proposed at 35' 11" and asked if the Applicant would take 1' off the height still leaving a 3'-4' safety margin and could they make the grade better on the driveway if the house was lowered by 1' and thereby eliminating a variance for height. There was additional discussion amongst Mr. Surmonte, Mr. White, Mr. Whitson and the Applicant on the numbers and the Applicant asked if the Board would consider 13.5".

Mr. Sullivan commented that he would.

Mr. Kahle asked if there was anything that could be done with the house – roofline, 9' first floor, 9' second floor and gain a foot to get that roofline - get it lowered.

Mr. Surmonte responded that Mr. White indicated his calculations were conservative and that the house would be from the gutter of the road would be less than 37' and that he had not documented the other homes but there would be some homes higher than 37'.

Mr. McGann asked Mr. White how concerned was he on the driveway grade. Mr. White responded that he would like to see 7 or 8 and the house would have to be pushed back. There was discussion about RSIS requirements and that the Applicant would comply with RSIS.

As there were no other comments from the Board, Mr. McGann requested the Board consider the application presented with the first floor proposed at 13.5' and the subsequent height variance if the Board so determined.

Mr. White refreshed the Board with the definition of height and mounding for their information.

Mr. Kahle asked additional questions about height, first floor elevations and grade figures which Mr. Surmonte answered.

Mr. Whitson asked the Board to comment on the issue of mounding.

Mr. Fichter stated he didn't believe it was mounding and didn't believe a height variance was needed.

Mr. McGann after discussion with Mr. Surmonte summarized that they were proposing slab/crawl space at elevation 10', garage/slab at elevation 10', a finished first floor elevation of 13.5' and a height/pitch of roof not to exceed elevation of 35'.

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

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

Ms. Smith stated the motion carried.

PUBLIC:

Acting Chairman Whitson opened the meeting to the public for comment on the application and as no one from the public was present closed that portion of the hearing.

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

ADJOURNMENT: As there was no further business, the meeting was adjourned at 8:48 p.m. on a motion by Councilman Johnson which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary