



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

AGENDA • NOVEMBER 16, 2021

Regular

Clement V. Sommers Municipal Building

7:00 PM

910 Oceanport Way, Oceanport, NJ 07757

I. Call to Order

II. Flag Salute

III. Open Public Meetings Statement

This meeting complies with the Open Public Meetings Act by adequate and electronic notification on October 26, 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. Board Policy

- It is Board Policy that no application will be opened after 9:30 P.M.
- No new testimony will be taken after 10:00 P.M., except at the discretion of the Board.

V. Roll Call

VI. Board Business

1. Report of Pending Applications

VII. Approval of Minutes

1. Planning/Zoning Board - Regular - Nov 10, 2020 7:30 PM

VIII. Old Business

1. PR-21-33 Resolution of Approval - Oport Partners, Phase II
2. Resolution of Approval - 27 Burnt Mill Circle/Corsi
3. Resolution of Approval - 22 Asbury Ave/Keller

IX. New Business

1. PB2021-16 Barker's Circle
Block 110, Portion of Lot 1
New Block 110.20, Lot 1 - 2000 Avenue of Memories
New Block 110.21, Lot 1 - 2200 Avenue of Memories
New Block 110.22, Lot 1 - 100 Barker's Circle
New Block 110.23, Lot 1 - 200 - 500 Barker's Circle
Major Site Plan Approval

X. Petitions from the Public

XI. Adjournment

**BOROUGH OF OCEANPORT****PLANNING/ZONING BOARD****MINUTES • NOVEMBER 10, 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 notification on January 15, 2020 of this location, date and time to the Asbury Park Press and the LINK News and by the posting of same on the municipal bulletin board and Borough Web Site. This meeting further complies with the Open Public Meetings Act by notification on October 6, 2020 of this virtual/remote meeting, its location, date and time, and URL address at which to participate in the meeting to the Asbury Park Press and Star Ledger and by the posting of same on the municipal bulletin board and Borough 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	Departed
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	Remote		
Michael Savarese	Class IV	Remote		
Robert Kleiberg	Class IV	Remote		
Darren Davis	Class IV	Remote		
Michael Dailey	Alternate I	Remote		
Jacob Rue	Alternate II	Remote		
Jeanne Smith	Board Secretary	Remote		
Kevin Kennedy	Board Attorney	Remote	8:20 PM	
William White	Board Engineer/Planner	Remote		
Kevin Asadi for Kevin Kennedy	Board Attorney	Remote		8:20 PM

VI. Board Business:

1. Approval of Minutes - Jul 14, 2020

RESULT:	ACCEPTED [10 TO 0]
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Savarese, Kleiberg, Davis, Dailey
INELIGIBLE:	Rue

2. Report of Pending Applications – Ms. Smith advised of upcoming applications for the November 24th and December meetings including 75 Horseneck Point Road, Brookview Drive, Monmouth Blvd., and Allison Hall parcel on the former fort. There are several applications pending and it may be necessary to add additional meeting potentially.

3. Referral from Governing Body - Zoning Ordinance Amendment #1030. Ms. Smith reviewed the preparation of a new comprehensive ordinance for land development as compiled by a review committee and introduced by the Governing Body. Ms. Smith

briefed the Board on the purpose of the ordinance and the Board's role and that a copy had been distributed to everyone for review. The referral was scheduled for the 11/24 meeting for discussion and response back to the Governing Body as to its consistency with the Master Plan.

Chairman Widdis changed the order of the agenda and moved the resolution items to the end of the meeting.

VII. Old Business:

3. PB2020-18 Beim, Jake

177 Comanche Drive

CARRIED from October 20, 2020

Ms. Smith advised that Chairman Widdis had not attended the last hearing on the application and has subsequently certified to the Secretary that he has viewed the meeting and is eligible to participate in the continuance of the application.

Michael Dailey recused from the matter and exited the meeting at 7:44 PM

William White, Board Engineer/Planner was sworn in. Mr. Kennedy advised that he may need to excuse himself momentarily and that Kevin Asadi, local attorney, would represent during his absence if necessary.

Mr. Hirsch, Applicant's Attorney, summarized the history of the application from the first meeting, his review of the email comments from the public, and the major issue of the side yard setback.

Patrick Ward, Applicant's Engineer, previously sworn in, proceeded with supplemental testimony concerning proposed changes to the plans in response to Board comments and public comments during the last meeting; described changes including increase of setback from 3.3' to 10' from the Mohican right-of-way which complies with the minimum side yard setback, however, because it is technically a front yard from Mohican, an unimproved right of way, a variance is still needed for that front yard setback; the proposed house location is completely in front of the former house footprint which was non-compliant; argued that a front yard setback is typically there to maintain site lines and streetscapes – but this is not an improved street and their understanding is that there is no plan by the Borough to develop it and believes the variance is still a reasonable request; the side yard setback to the northern property line by the garage would be 15' meeting the combined side yard setback of 25'.

There was discussion led by the Chairman on whether the Board was willing to proceed without the revised plan. Board members Rue, Kleiberg, Whitson, Cooper, Kahle, Foster, Tvrdik expressed that they wanted to see the revised plan in order to make a decision. Board member Savarese disagreed as he didn't believe it was a tremendous amount of work to shift the house and to make Applicant come back again was an undue hardship to the Applicant – Mr. Davis agreed that it was a technicality and shouldn't burden the Applicant with the additional costs, the house was only being shifted 7'; Mr. Rue stated he would like to see the drawing as did Chairman Widdis for the public's benefit as well.

Mr. Hirsch commented that there are times when approvals are conditioned upon plans being changed and reviewed. The Applicant did not have a lot of time between meetings to pull the revised plans together and at this point they are looking for feedback from the Board as to the increase of the setback to 10' so they aren't coming back with something and then the Board state they didn't like it.

Chairman Widdis asked for questions from the Board.

Mr. Whitson asked about the variance for height and was told that would be provided under the Architect's testimony.

Mr. Foster asked if the shift of the house would change the runoff going out onto the right-of-way and was told no, it likely would benefit the right-of-way as it gentles the slope; they are proposing to capture front yard runoff with a dedicated yard inlet that directs through the bulkhead on the subject lot to the river.

Mr. Rue asked about the footprint of the proposed patio and would it be reduced with the shift and was told no, it was unchanged and shifting with the house. Mr. Ward added that the patio as designed was fully compliant.

Chairman Widdis asked wouldn't the patio shift into the side yard setback. Mr. Ward reviewed that the north side was a 10' setback and the patio will not encroach into the setback. The Chairman asked if the pergola would be an issue with the shift of the patio.

Chairman Widdis asked additional questions about the patio and deck locations shown on the plan and requested that revised plans more clearly identify those locations.

Chairman Widdis asked if there were plans for a generator and if so, to show it on the revised plan as well.

Chairman Widdis asked if the driveway would also shift. Mr. Ward responded that needed to be discussed with the Applicant and would be shown on the revised plans.

Jake Beim, Applicant, who stated that the driveway will shift with the house as well and would meet the same setback as the house.

PUBLIC: Chairman Widdis opened the hearing to questions from the public of this witness. Ms. Smith provided details for participation.

Celia Tennenbaum, 174 Comanche Drive, asked about the notice statement that the front yard setback is supposed to be 15' and what's the 10' being discussed. Mr. Ward responded that the 10' is a variance requirement for relief from the 15' requirement. Ms. Tennenbaum asked why it wouldn't be moved to the full 15' based on the concerns of the public and have they exhausted all options. Mr. Ward

responded that the lot is a narrow lot and creates a hardship and the house was designed to meet the combined side yard setback of 25' and the proposal was to minimize impact to the neighbor to the north.

Toni Sverapa, 155 Comanche Drive, asked if the existing deck would be removed as she doesn't see on the plan. Mr. Beim responded that the deck she was referring to was part of the dock which he was working with the DEP to replace the dock and bulkhead and was unrelated to the patio. Ms. Sverapa asked if there would be a pool in the current plan and was told no.

Mitchell Wiener, 189 Comanche Drive, asked questions about stormwater runoff, discharge location to the river. Mr. Wiener commented that he was required to put in a recharge system.

Mr. White commented that he wouldn't require recharge system because of the low-lying area but that it was requested to address a low lying area on the site. Mr. Ward added that there was an inlet planned for the front yard to collect and discharge out.

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

Mr. Ward summarized the revisions to be made on the plans including new setbacks, proposed generator, fix base map hatching, limits of pergola on patio, relocate the driveway, dimension the driveway and backout distance, estimate height of adjacent patio. Indicate on plans the landscape buffer.

Anthony Condouris, Applicant's Architect, was sworn in, presented his qualifications and having previously been before this Board was accepted as an expert in architecture. Mr. Condouris provided testimony as to his familiarity with the site, his design of the plans, described the house characteristics, explained the desire for the additional height to accommodate walk up attic for storage which would be severely limited if the height would comply. Mr. Condouris also testified that with the narrowness of the lot, the house was limited to 50' wide and if the lot was full sized they would be able to keep the house compliant, the proposed house is under the permitted building coverage and mimics the style of the surrounding houses and neighborhood along the water; the challenge of keeping the height within the limits of measurement from the crown of the road; the additional 2' of height would not block views and was setback from the road giving the appearance of being smaller.

Mr. Kennedy re-joined the meeting at 8:20 PM.

Mr. Condouris continued with testimony describing the materials proposed for the exterior of the home – maintenance free that mimics clapboard or cedar shake, asphalt roof, copper accents on dormers and front porch, pergola/trellis and its location, height of about 9.5'.

Chairman Widdis invited questions from the Board.

Mr. Whitson had no questions but commented his concern for the height of the building.

Ms. Cooper commented that she didn't understand the height and the statement of the need for storage instead of using more of the available footprint to go wider and less height and remove the variance. Mr. Condouris responded with the house on the water the intent was to capture as much of the views as possible rather than extending toward the street.

Mr. Foster asked questions about the square footage of living space; was the habitable area a bedroom or sitting room.

Chairman Widdis asked why the plans don't show floor plan, access for the attic area and no measurements for the balconies. Mr. Condouris apologized that it appeared not to be on the plan and would bring one to the next meeting.

Councilman Tvrdik asked for clarification on the height variance being sought and was told 37'; how far back from Comanche is house set back and was told 179.62' by Mr. Hirsch.

Mr. Kleiberg asked questions about the minimum habitable floor areas and asked for it to be shown on the plans.

Mr. Savarese asked if the lower level of deck were planters and was told more like terraces.

Mr. Davis confirmed that the pergola would never have a solid roof and noted that the terraces should show the measurements which are required to be a minimum of 3' for safety. Mr. Davis also commented that he didn't have an issue with the 2' additional height as a number of homes in the area were higher.

Mr. Rue expressed concern with the height of the structure due to the narrowness of the lot and looked forward to seeing revised plan.

Chairman Widdis asked that the plan be revised to show the windows.

Councilman Tvrdik added that he did not have a concern with the height of the roof.

PUBLIC: Chairman Widdis opened the hearing to questions from the public of this witness. Ms. Smith provided details for participation. As there was no one else from the public, Chairman Widdis closed that portion of the meeting.

It was discussed what meeting to carry to. Ms. Smith advised next date available was January 12 and would need consent to extend the decision deadline which Mr. Hirsch granted through to the next hearing date or date that it was carried to.

Motion to Carry Application to January 12, 2021 with no additional notice required

RESULT:	ADOPTED [9 TO 0]
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis, Rue
INELIGIBLE:	Savarese
RECUSED:	Dailey

Councilman Tvrdik recused himself from the next matter at 8:42pm

Mr. Savarese also recused himself from the next matter due to a conflict at 8:43 pm

Ms. Cooper also exited the meeting as the Mayor's designee from a use variance application

VIII. New Business:

1. PB2020-19 KBeeHaven LLC
196 Monmouth Blvd
Block 65, Lot 37
Request for Waiver of Requirements for Submission
Site Plan, Expansion of Non-Conforming Use and Bulk Variances

EXHIBITS:

- A-1 Land Development Application
- A-2 Architectural Plans "KBeeHaven- Proposed Design," 3 Sheets, prepared by Michael Savarese Associates, revised Aug 5, 2020
- A-3 Exhibit entitled "196 Monmouth Boulevard" prepared by Michael Savarese Associates, 4 Sheets, dated Aug. 5, 2020
- A-4 Letter from Michael Savarese Associates dated July 15, 2020.
- A-5 Maser Consulting Review Letter dated October 26, 2020.

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. Mr. Kennedy then described and marked Exhibits A-1 through A-9; B-1, B-2. 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.

Mr. Kennedy further advised that the application was noticed for Site Plan and Use Variance, however, the first part of the hearing would need to address the Applicant's request from waiver requirements in order to deem the application complete.

Rick Brodsky, Attorney for the Applicant, proceeded with disclosure of the Applicant's Principles Kimberly Bellissimo and Terry Davis with which no members of the Board expressed a conflict.

Mr. Brodsky continued with introductions with a description of the application for variances to renovate the interior and exterior of the existing florist building; no expansion proposed to the existing building; proposal is to reduce a 1/3 of the area to the existing use and use the remaining 2/3 of the building for the KBeeHaven use for a home goods and design studio for high-end home décor and gifts and a tea room to service the clientele which are mostly by appointment; removal of existing greenhouses, installation of additional parking space in place of the greenhouses, compliant signage and though they are replacing an existing non-conforming commercial structure, it does require a "d" variance due its alteration and change of use.

Mr. Brodsky next reviewed the wavier requests and believes that because the project was for renovation of existing structure and thought the Board might see fit to grant the waivers to proceed with the application for this mom and pop type operation and minimize costs.

Mr. White outlined the waivers which were taken one at a time. The first waiver being sought for topography, existing and proposed, the entire property is within the flood zone. There was discussion with the Board on the necessity for that item in order to proceed. Mr. Whitson expressed concern that the Board not abrogate its responsibility to the Board Engineer as a condition and believes the Board should see the material needed to make a decision. Mr. Foster had concerns about the wetlands and not having the design information on the contours. Mr. Kleiberg agreed with Mr. Whitson and the need for the information before the Board could act. Mr. Kahle agreed with them and commented on the lack of submission items of late and the expectation of the Board to make a decision without that information. Mr. Davis was in agreement, there was no information for the patio on the east side from a parking aspect. Mr. Dailey fully agreed with the comments of the previous members. Chairman Widdis also agreed.

Mr. Brodsky asked if the Board would entertain bifurcating the application so that testimony could be presented for the use variance before the Applicant expends funds to do the full site plan.

Mr. Kennedy opined at the Board's request, that the request to bifurcate the application was not uncommon and would permit the Board to hear the application only for the use variance and he would agree that it was appropriate to proceed in that manner with no issue on the notice.

Chairman Widdis commented that there didn't appear to be any documentation on the uses proposed and nothing about the areas in the back of the property.

Mr. Brodsky argued that they have a Planning Expert ready to provide testimony and was not sure of the issue, there is no checklist requirement for a plan for use variance.

Mr. Davis commented that the Board would like to see what other uses are in the area in order to determine if continuing the flower use and expanding the uses were appropriate. He expressed concern too for partial testimony now and not continuing until January like the last application and would be better to come in with one complete application so as not to revisit past testimony.

Motion to Deny Waiver Requests

RESULT:	ADOPTED [8 TO 0]
MOVER:	Darren Davis, Class IV
SECONDER:	Michael Dailey, Alternate I
AYES:	Widdis, Whitson, Foster, Kahle, Kleiberg, Davis, Dailey
RECUSED:	Cooper, Tvrdik, Savarese

Mr. Brodsky asked if the denial of waivers included the Environmental Impact Statement which after discussion was determined yes, the Board wants to see an EIS to reflect current conditions and if any impacts to wetlands.

There was discussion on whether to open the meeting to the public for comment/feedback. Mr. Kennedy cautioned that there needs to be limited to feedback because there has been no testimony and do not want public opinion and board member opinion to be swayed based on information.

Mr. Brodsky commented that he appreciated the opportunity to have some public feedback and agreed.

The meeting was open to the public.

Steven Denholtz, 189 Monmouth Blvd, directly across the street from the florist, stated they were strongly in favor of the application and believes it would be an unusual and beautiful improvement by upgrading a building and allow for a 100-year business to continue.

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

Mr. Brodsky request to adjourn the application and that if the plan needed to be changed they would re-notice and agreed to extend the decision deadline.

Motion to Carry Application to January 12, 2021 with new notice and subject to Application being Deemed Complete

RESULT:	ADOPTED [7 TO 0]
MOVER:	Joseph Foster, Environmental Committee Liaison
SECONDER:	Michael Dailey, Alternate I
AYES:	Widdis, Whitson, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Rue
RECUSED:	Cooper, Tvrdik, Savarese

Old Business Cont'd:

1. PR-20-29 Resolution of Approval - MPCC II

As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions.

Councilman Tvrdik rejoined the meeting at 9:40 PM and confirmed review of the resolution.

Mr. Whitson made a motion to approve the Resolution, which was seconded by Mr. Kahle and received the below roll call:

Councilman Tvrdik re-entered the meeting at 9:39 PM

Motion to Adopt Resolution PR-20-29

RESULT:	ADOPTED [8 TO 0]
MOVER:	James Whitson, Vice Chairman
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Davis, Rue
INELIGIBLE:	Cooper, Savarese, Dailey

2. PR-20-30 Resolution of Approval - Triumphant Life Church

As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, pointed out one missing item on the hours to be added after which Mr. Whitson made a motion to approve the Resolution, which was seconded by Mr. Foster and received the below roll call:

Motion to Adopt Resolution PR-20-30

RESULT:	ADOPTED [8 TO 0]
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Dailey, Rue
ABSENT:	Cooper
INELIGIBLE:	Savarese, Davis

With the Chairman's consent, Board member Kleiberg led discussion on recent applications and the matter of the submitted documents not being sufficient for the Board to review. Discussion included the limits of the current checklist requirements, what was currently required for submission, how to amend the checklist, the new ordinance includes new detailed checklist and Board members will review and advise of any recommended additions at the next meeting's review of the proposed ordinance.

- IX. Petitions from the Public:** Chairman Widdis opened the meeting to Petitions from the Public. Ms. Smith read submitted email comment from Celia Tennenbaum thanking the Board for their care and attention to ensure 177 Comanche Drive does not negatively impact the paper street and community. As no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

Board members discussed the potential time to return to in-person meetings.

- X. Adjournment:** As there was no further business, the meeting was adjourned at 10:24 pm on a motion by Mr. Whitson which was seconded by Mr. Kahle and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary



Planning/Zoning Combined Board

PO Box 370
Oceanport, NJ 07757

TABLED

RESOLUTION - PB 21-33

Meeting: 11/16/21 07:00 PM
Department: Planning/Zoning Board
Category: PB Resolutions
Prepared By: Jeanne Smith
Initiator: Jeanne Smith
Sponsors:
DOC ID: 2230

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

HISTORY:

11/09/21

Planning/Zoning Board

TABLED

Next: 11/16/21

Mr. Kennedy advised that the resolution had been distributed to the Applicant's attorney who had provided several comments. After discussion with the Chairman and Secretary and Board Conflict Engineer, a request was made to table for the next meeting in order to resolve comments and bring back to the Board.

Tabled

11/16/2021

DRAFT

To: [Kennedy Law](#)
Cc: [Jeanne Smith](#)
jgiunco@ghclaw.com; jflor@engenuitynj.com
Subject: Oceanport - Oport Partners, Phase II
Date: Friday, November 12, 2021 2:07:24 PM
Attachments: [Resolution.docx](#)

Hello. Per my recent discussion with the applicant's representatives and Jacklyn Flor, I have modified the proposed resolution. I have highlighted the changes to facilitate the Board review. Please note that none of the proposed changes will be incorporated unless specifically reviewed and approved by the Board.

Please also note there are two issues which Jackie and I want to review with the Board (the said issues are highlighted as well.)

If you do not want to forward the resolution until such time as the issues are resolved and finalized, I will advise Mr. Giunco accordingly.

Thanks, and have a great weekend. kek

Law Office of Kevin E. Kennedy, Esq.
165 Hwy 35
Red Bank, NJ 07701
Phone: (732) 936-1099
Fax (732) 936-1960

Due to the threat of wire fraud, whenever you receive wiring instructions from this office, please call the Office Manager and verbally confirm/verify the wiring instructions (before you wire).

RESOLUTION

**BOROUGH OF OCEANPORT PLANNING BOARD
APPROVAL OF THE APPLICATION OF OPORT PARTNERS, LLC
DENHOLTZ PARTNERS, LLC
FORT MONMOUTH COMPLEX
OCEANPORT, NEW JERSEY
BLOCK 110.13, LOT 1
APPLICATION NO.: PB2020-29.1
PHASE II
APPROVAL DATE: OCTOBER 18, 2021
MEMORIALIZATION DATE: NOVEMBER 9, 2021**

INTRODUCTION

WHEREAS, Agents of Oport Partners, LLC have made Application to the Oceanport Planning Board for the property designated as Block 110.13, Lot 1, Fort Monmouth Campus, Oceanport, New Jersey, within the Borough's Warehouse District (which has an overlay Zone within the Oceanport Education / Mixed Use Neighborhood Zone), for the following Phase II approval: Preliminary and Final Major Site Plan Approval, Potential Bulk Variance Approval, Exception Approval, and Design Waiver Approval to effectuate the following:

- Demolition of 5 existing Administrative Buildings on the site (already completed);
- Demolition of 3 existing Warehouse Buildings on the site (already completed);
- Removal of existing curbing / pavement / parking areas on the site;
- Construction of 3 Commercial Flex Space Buildings; and
- Installation of additional site improvements, including 187 parking spaces, pedestrian walkways, utilities, lighting, and landscaping; and

PUBLIC HEARINGS

WHEREAS, the Board held Public Hearings on September 28, 2021 and October 18, 2021, Applicant's representatives having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Land Development Application, introduced into Evidence as A-1;*
- *Topographical Survey (Warehouse Parcel), prepared by John T. Luts, P.L.S., dated November 18, 2020, revised through January 18, 2021, consisting of 1 sheet, introduced into Evidence as A-2;*
- *Preliminary and Final Site Plans, prepared by Kennedy Consulting Engineers, dated February 15, 2021, consisting of 8 sheets, introduced into Evidence as A-3;*
- *Architectural Plans (proposed Flex Building A), prepared by Rotwein & Blake Associates, dated January 22, 2021, last revised March 12, 2021, consisting of 2 sheets, introduced into Evidence as A-4;*
- *Architectural Plans (proposed Flex Building B), prepared by Rotwein & Blake Associates, dated January 22, 2021, last revised March 12, 2021, consisting of 2 sheets, introduced into Evidence as A-5;*
- *Architectural Plans (proposed Flex Building C), prepared by Rotwein & Blake Associates, dated January 22, 2021, last revised March 12, 2021, consisting of 2 sheets, introduced into Evidence as A-6;*
- *Landscape Plan, prepared by Melillo, Bauer, & Carmen Landscape Architecture, dated March 12, 2021, introduced into Evidence as A-7;*
- *Traffic Impact Analysis Report, prepared by McDonough & Rea Associates, Inc., dated January 27, 2021, revised March 9, 2021, introduced into Evidence as A-8;*
- *Stormwater Management Report, prepared by Kennedy Consulting Engineers, LLC, dated January 25, 2021, revised February 15, 2021, introduced into Evidence as A-9;*
- *Report of Geotechnical Investigation, prepared by Whitestone Associates, Inc., dated August 14, 2020, introduced into Evidence as A-10;*
- *Environmental Impact Statement, prepared by EcolSciences, Inc., dated April 15, 2021, introduced into Evidence as A-11;*
- *Addendum to the Environmental Impact Statement, prepared by EcolSciences, Inc., dated July 30, 2021 (associated letter signed by Peter A. Hansen, LSRP, LEP, Vice President), introduced into Evidence as A-12;*
- *Mandatory Conceptional Review (Phase II Warehouse Final MCR), prepared by Upendra Sapkota of FMERA., dated June 3, 2021, introduced into Evidence as A-13 (NOTE: The said document was superseded by subsequent Evidence);*
- *Mandatory Conceptional Review, prepared by Upendra Sapkota, P.P., AICP, LEED, AP, dated July 13, 2021, introduced into Evidence as A-14;*
- *Stormwater Facility Manual, prepared by Kennedy Consulting Engineers, LLC, dated May 12, 2021, revised May 18, 2021, introduced into Evidence as A-15;*

- *Board Engineer Review Memorandum, prepared by ENGenuity Infrastructure Engineering, dated September 15, 2021, introduced into Evidence as A-16;*
- *A series of 4 Renderings (Phases I / II / III) (with an aerial photo) Exhibits, prepared by Kennedy Consulting Engineers, LLC, aerial photo, dated March 23, 2021, (the 3 other sheets are dated Sept. 28, 2021), introduced into Evidence as A-17;*
- *Colored Rendering of Phase II Landscaping Plan, prepared by Melillo, Bauer, & Carmen Landscape Architecture, dated September 28, 2021, introduced into Evidence as A-18;*
- *Lighting Plan, Phase II, prepared by Melillo, Bauer, & Carmen Landscape Architecture, dated March 12, 2021, introduced into the Evidence as A-19;*
- *Illustrated Computer Rendering of proposed Flex Building A, prepared by Rotwein & Blake Associates, dated August 7, 2020, introduced into Evidence as A-20;*
- *Illustrated Computer Rendering of proposed Flex Buildings B and C, prepared by Rotwein & Blake Associates, dated August 7, 2020, introduced into Evidence as A-21;*
- *Rear Elevation of proposed Flex Building B / C (Sheet A.4.1 of the Architectural Plans), prepared by Rotwein & Blake Associates, dated January 22, 2021, last revised March 12, 2021, introduced into Evidence as A-22;*
- *Sheet A1.1 of the Architectural Plans (revised Plan for Building A, Flex Space), prepared by Rotwein & Blake Associates, dated October 15, 2021, introduced into Evidence as A-23;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, sworn testimony in support of the Application was presented by the following:

- James Kennedy, P.E., Engineer;
- Lance Blake, Architect;
- John Rea, Traffic Engineer;
- Andrew Janiw, Professional Planner
- John Giunco, Esq., appearing;

WHEREAS, Jaclyn Flor, P.E., P.P., C.M.E., the Board's Conflict Engineer, was also sworn with regard to any testimony and information she would provide in connection with the subject Application; and

**TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANT'S
REPRESENTATIVES**

WHEREAS, testimony and other evidence presented by the Applicant's Representatives revealed the following:

- The Applicant is the Owner of the subject property.
- The Principals of the Applicant have significant experience in the construction and development field.
- The subject property is an approximate 8.8-acre parcel located in the Fort Monmouth Complex.
- There are 3 overall Phases to the Applicant's project; namely, Phase I, Phase II, and Phase III.
- The Phase I stand alone aspect of the project was approved by the Oceanport Planning Board on or about March 23, 2021.
- The within Application involves the Phase II stand alone aspect of the project.
- Currently, the site is developed with 5 Administrative Buildings and 3 Warehouse Buildings.
- The Phase II aspect of the project includes the following:
 - Demolition of 5 existing Administrative Buildings on the site (already completed);
 - Demolition of 3 existing Warehouse Buildings on the site (already completed);
 - Removal of existing curbing / pavement / parking areas on the site;
 - Construction of 3 Commercial Flex Space Buildings; and
 - Installation of additional site improvements, including 187 parking spaces, pedestrian walkways, utilities, lighting, and landscaping; and
- The 3 new buildings will be informally identified (on the Plans) as Building "A", Building "B", and Building "C."

- Details pertaining to the proposed buildings include the following:

	Building A	Building B	Building C
Size of building:	31,370 SF	20,584 SF	20,584 SF
Height:	35.6 ft.	26.1 ft.	26.1 ft.
Number of stories:	Per Plans	Per Plans	Per Plans
Use:	Commercial flex space	Commercial flex space	Commercial flex space
Number of loading areas:	6	5	5
Location:	Per Plans	Per Plans	Per Plans
Specifically identified Tenants?:	As of the hearing date, no specific Tenants have been identified.	As of the hearing date, no specific Tenants have been identified.	As of the hearing date, no specific Tenants have been identified.

- It is anticipated that the aforesaid demolition / construction process will take place in the near future.
- The Applicant's representatives will be utilizing licensed contractors in connection with the demolition / construction process.

VARIANCES / DESIGN WAIVERS / EXCEPTIONS

WHEREAS, the Application as presented and modified requires approval for the following

Variances / Design Waivers / Exceptions:

TRASH ENCLOSURE LOCATION: Pursuant to the Prevailing Regulations, no refuse or recycling storage areas shall be permitted in the front yard, or between the street and the front of any building. In the within situation, the Applicant is proposing a trash enclosure in the front yard area, between Building "C" and Oceanport Way. As such, relief is required.

HEIGHT OF FREE-STANDING LIGHTS: The Prevailing Regulations provide that the maximum height of free-standing lights shall not exceed the height of the principal building or 18 ft., whichever is less. In the within situation, the Applicant is proposing pole mounted lights with a mounting height of 20 ft. and 25 ft. As such, relief is required.

HEIGHT OF BUILDING MOUNTED LIGHTS: The Prevailing Regulations provide that the maximum height of building mounted lights shall not exceed the height of the principal building or 18 ft., whichever is less. In the within situation, the Applicant is proposing building mounted lights with a mounting height of 22 ft. As such, relief is required.

MAXIMUM ILLUMINATION AT PROPERTY LINE: The Prevailing Regulations provide that the maximum illumination at the property line shall be 0.1 ft. candle. In the within situation, the Applicant is proposing an

illumination intensity of 0.6 ft. candles at the property line. As such, relief is required.

LIGHTING INTENSITY: *The Prevailing Regulations provide that the minimum lighting intensity in a given area cannot be less than 0.5 ft. candles. In the within situation, the Applicant is proposing a minimum illumination intensity of 0.3 ft. candles at the property line. As such, relief is required.*

BUILDING SETBACKS: *The Prevailing Regulations provide that building setbacks shall meet FMERA Land Use Rules (N.J.A.C. 19:31C-3.14(d)). Oceanport Way was initially envisioned as a Boulevard in the circulation element of the Land Use Regulations. However, in subsequent meetings and communications with FMERA representatives, FMERA representatives clarified in that permitted uses have changed per Amendment No. 15, FMERA representatives no longer envision Oceanport Way as a Boulevard, and that the same is now envisioned as a future 50 ft. Right-Of-Way. Therefore, the setbacks to a minor collector road would apply, which are a minimum of 20 ft. and a maximum of 30 ft.. However, in the within situation, the Applicant's representatives are proposing Building Setbacks of between 82.1 ft. and 245 ft. FMERA representatives have advised Planning Board representatives that, as a result of the same, relief is required.*

BICYCLE RACK DETAILS: *The Prevailing Regulations require that for all non-residential buildings, a secure indoor bicycle storage room shall be provided and, the number of bicycle parking in each required area shall be based upon the expected number of occupants, visitors, and / or workers at the building. The Applicant herein has proposed an exterior bicycle rack for 7 bicycles near the exterior of each of the 3 proposed buildings. Relief is required.*

PUBLIC COMMENTS

WHEREAS, during the Public Hearing process, formal questions / comments / statements / concerns were expressed by the following:

- John Johnson

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the members of the Oceanport Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Phase II aspect of the Application is hereby **granted / approved with conditions**, as set forth herein.

In support of its decision, the Oceanport Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Oceanport Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is identified as Block 110.13, Lot 1, Oceanport, New Jersey, within the Borough's Warehouse District, which has an overlay Zone within the Oceanport Education / Mixed Use Neighborhood Zone.
3. The subject parcel contains approximately 8.8 acres.
4. The subject property is located west of the intersection of Oceanport Way (formerly Murphy Drive) and Anson Avenue.
5. The subject property currently contains 5 existing Administrative Buildings and 3 existing Warehouse Buildings.
6. The subject property is located within the Oceanport portion of the former Fort Monmouth Complex.
7. Pursuant to Prevailing Regulations, the property is subject to the Fort Monmouth Economic Revitalization Authority (FMERA) guidelines.
8. The FMERA regulations have been designed with the intention of providing comprehensive, cohesive, and consistent development of the various portions of the Fort Monmouth Complex, regardless of whether the particular development site is located in the Borough of Oceanport, the Borough of Eatontown, or the Borough of Tinton Falls.
9. Generally speaking, the FMERA regulations govern the uses at the former Fort Monmouth site, and the various host communities (including the Borough of Oceanport, and the Oceanport Planning Board) govern Site Plan and Bulk Variance – related issues / concerns.
10. The Applicant's representatives propose the following:
 - Demolition of 5 existing Administrative Buildings on the site (already completed);
 - Demolition of 3 existing Warehouse Buildings on the site (already completed);
 - Removal of existing curbing / pavement / parking areas on the site;

- Construction of 3 Commercial Flex Space Buildings; and
- Installation of additional site improvements, including 187 parking spaces, pedestrian walkways, utilities, lighting, and landscaping; and

11. Details pertaining to the Phase II aspect of the proposal are set forth on the submitted Plans, are set forth elsewhere herein, and were discussed, at length, at the subject Public Hearings.

12. Such a proposal (i.e. Phase II) requires Preliminary and Final Major Site Plan Approval, Bulk Variance Approval, Exception Approval, and Design Waiver Approval.

13. The Oceanport Planning Board is statutorily authorized to grant the requested relief and therefore, the matter is properly before the said entity.

14. With regard to the Application, and the requested relief, the Board notes the following:

PARKING

- The parking situation at the site is of critical importance for the Board Members.
- It is imperative that there be sufficient parking for the Applicant's proposed use (in accordance with the specific testimony presented during the Public Hearings).
- The absence of sufficient / appropriate parking for any particular use in the former Fort Monmouth Complex will be detrimental to the Borough of Oceanport, and the other host communities.
- The absence of sufficient / appropriate parking for a particular use in the former Fort Monmouth Complex will compromise overall Fort Monmouth redevelopment efforts.
- Per the testimony and evidence presented, the Applicant's site is required to have 91 off-street parking spaces, calculated as follows:

1 space per 800 SF of Flex Space

- 188 off-street parking spaces are proposed.
- The said parking spaces satisfy, and significantly exceed, Prevailing Parking Requirements.
- Pursuant to the Prevailing Regulations, the proposed development is required to have 91 parking spaces; whereas, as indicated, the Applicant herein is proposing 188 parking spaces.
- As referenced, the proposed parking exceeds the minimum required parking requirements, and thus, no Parking Variance is required.

- The Board is aware that many times, developers attempt to under-park a site, which does not represent good planning, and consistently leads to quality-of-life concerns for future visitors to the site. The Board recognizes that the within Application is not under-parked but rather, the same contains more than sufficient / more than required parking spaces.
- In that sufficient parking is provided for the Applicant's proposed Use, no Parking Variance is required.
- The existence of sufficient parking is of the utmost importance to the Board Members – and but for the same, the within Application may not have been approved.
- Based upon the testimony and evidence presented, the Board finds that the parking is sufficient for the development site.
- Currently, the parking lot area for the site/concrete areas for the site are somewhat in a state of disarray. There are a number of significant deficiencies associated with the existing parking/concrete areas at the site. Some of the aforesaid deficiencies include the following:
 - i. The existing parking spaces are not clearly delineated;
 - ii. The existing parking/concrete/paved areas are cracked, worn, and uneven;
 - iii. There are a number of tripping hazards at and around the parking/concrete areas at the site;
 - iv. There is a significant amount of pavement in the area which is either broken, cracked, or otherwise compromised;
 - v. The existing parking lot area and related concrete areas have not been sufficiently paved to prevailing municipal standards;
 - vi. The existing parking lot areas/concrete areas at the site have not been maintained to prevailing municipal standards;
 - vii. There are a significant amount of potholes, divots, and other indentures / imperfections throughout the existing paved areas at the site;
 - viii. The paved areas are not sufficiently illuminated, in accordance with Prevailing / Modern Design Standards;
 - ix. The existing lighting scheme at the site is not energy-efficient; and
 - x. The existing lighting scheme at the site (for the existing parking/paved areas) is not dark-sky compliant.

The existence of the aforesaid existing conditions is problematic.

- The aforesaid existing parking area/concrete area conditions are problematic and need to be repaired / addressed / cured / improved.
- As part of the Application process, the Applicant's representatives will be removing the existing parking areas/paved areas, and reconstructing the same.
- The Application approved herein will ultimately result in vast improvements for the subject parking areas/paved areas.
- The proposed parking/paving improvements (associated with the within Application) include the following:
 - i. The ultimate reconstruction of the designated parking stalls;
 - ii. The ultimate reconstruction of the existing parking area;
 - iii. The elimination of the existing pavement irregularities at the site (including the elimination of the cracked pavement);
 - iv. The elimination / removal of the existing tripping hazards in the existing parking area/paved areas; and
 - v. The installation of new LED dark-sky compliant lights (at the parking area) so as to ensure that the lighting will be directed to the ground, and not up to the sky (which could, in turn, contribute to light pollution).
- The aforesaid parking lot/pavement improvements will significantly enhance and improve the quality of the existing parking lot / area.
- The aforesaid parking lot/pavement improvements will improve the safety for the individuals / visitors who will utilize and / or otherwise visit the to-be-renovated Commissary Building.
- The aforesaid parking lot /paving improvements will ultimately result in the parking areas (and related areas) being paved to municipal or near municipal standards.
- The aforesaid parking lot/pavement improvements will significantly improve the overall parking scheme at the site.
- The aforesaid parking lot/pavement improvements will significantly enhance the overall parking/transportation at the site.
- The parking lot/pavement improvements, as aforesaid, will ultimately improve the ease with which vehicles / drivers can safely enter / exit / maneuver the site.
- The size of the parking space stalls in the within Application satisfies the prevailing Design Standards.

- The Applicant's representatives will be making the necessary repairs to the pavement, loading area, and access points.
- The width of the parking circulation aisle is sufficient.
- The site is appropriately designed, from a traffic standpoint.

TRAFFIC

- The traffic issues associated with the proposal were of paramount importance to the Board Members.
- The Applicant's representatives submitted a Traffic Impact Analysis in connection with the Application.
- The Traffic Impact Analysis, prepared by McDonough & Rea Associates, dated January 27, 2021, last revised March 9, 2021, was entered into the Record as A-8.
- Per the Traffic Impact Analysis, in preparing the Traffic Report, the Applicant's representatives undertook a number of steps / initiatives to gather the necessary information to provide a comprehensive traffic analysis. Such undertakings included the following:
 - a. A field examination of the site and the surrounding road networks was conducted so as to inventory physical and regulatory conditions regarding the surrounding roadways, including the number of lanes, lane assignments, channelization, traffic control devices, lateral clearances, and other traffic-limiting capacities;*
 - b. Traffic counts were calculated at the County Route 537 / Oceanport Way intersection, the County Route 537 / Todd Avenue (aka Oceanport Way) intersection, and the County Road 537 / Oceanport Avenue intersection;*
 - c. The preparation of traffic estimates, generated by various uses based on the Institute of Transportation Engineers Trip Generation Manual;*
 - d. The preparation of future traffic volume demand estimates, in consultation with other approved Applications or Applications which are under construction in the immediate Fort Monmouth Area; and*
 - e. The analysis of the service capacity of the aforementioned County Road 537 intersections, in accordance with procedures established by the Highway Capacity Manual.*

See Traffic Impact Analysis (A-8)

- The aforesaid extensive analysis was appropriate, and necessary, for a project such as that proposed herein.
- Moreover, the Board finds that in the absence of such an extensive and detailed Traffic Impact Study, such a development could not have been properly approved.
- During the Public Hearing process, the Board Members were provided with a description of the roads, intersections, and traffic volumes in the immediate area of the development site.
- Per the testimony and evidence presented, the Applicant's representatives arranged for turning movement counts to be conducted during the morning and evening peak periods on a typical weekday (at the study intersection) so as to examine traffic conditions at and near the development site.
- The aforesaid traffic counts were identified in the Traffic Impact Analysis, and discussed during the Public Hearing process.
- As a result of the data obtained and analyzed, as is standard, the Traffic Impact Analysis generated various findings and conclusions.
- Some of the findings / conclusions as set forth in the Traffic Impact Analysis included the following:

It is concluded, based on this analysis, that Plans to redevelop the Warehouse District and Commissary / Post Office properties within the confines of Fort Monmouth can be approved and operate compatibly with future traffic conditions in the area. Levels of service at all studied intersections, including the signalized intersection of County Route 537 / Oceanport Avenue will operate well within accepted Traffic Engineering parameters.

See Traffic Impact Analysis Report (A-8)

- After extensive testimony, debate, questioning, and an opportunity for public comment, and subject to conditions, the Board Members ultimately accepted the Findings and conclusions as set forth in the Traffic Impact Study (A-8).
- Subject to the conditions set forth herein, the Board accepts the Findings / Conclusions of the Traffic Impact Study, and the professional testimony associated therewith. Moreover, the Findings and Conclusions of the Traffic Impact Study are incorporated herein at length.

PLANNING / FINDINGS

- The Application as presented also requires a Design Waiver for lighting. Specifically, pursuant to the prevailing regulations, a maximum illumination level of 0.1-foot candles are permitted; whereas, in the within situation, the Applicant's representatives are proposing slightly greater than the same. Towards that end, the Board notes said increase is minimal, is limited to small

locations, and the same will not result in any negative impact to the surrounding properties.

- The Application as presented requires a Design Waiver for the maximum height of the free-standing lights. Specifically, the Prevailing Regulations provide that the maximum height of free-standing lights should not exceed the height of the principal building, or 18 ft., whichever is less. However, in the within situation, the Applicant's representatives are proposing free-standing light poles which have a height of 20 ft. and 25 ft. The Applicant is also proposing building mounted lights with a mounting height of 22 ft. As such, Design Waiver relief is required.
- Though the proposal does not satisfy the Prevailing Design Standards, the Board is aware that there is adequate spacing between the proposed light poles, so as to minimize any excessively bright areas of illumination.
- Per the testimony and evidence presented, though the proposal does not technically meet all of the Design Standards for the height of the light poles, the Applicant's light pole proposal is appropriate for the site and the same does not compromise the health or safety of those who will visit the site.
- Under the circumstances, the free-standing lighting pole height deviation is relatively de-minimus in nature.
- The Application as presented requires a Design Waiver for the Minimum Lighting Intensity Regulations. Specifically, the Prevailing Borough Regulations require that the proposed lights be no less than 0.5-ft. candles. However, in the within situation, a portion of the parking lot will have lights which have a lighting intensity of only 0.3 ft. candles, at the property line, which is below the minimum standards. As such, Design Waiver relief is required.
- The Board notes, importantly, that the lower than required lighting intensity is not a feature of the entire Development. Rather, the lower than required lighting level is only present in one corner of the parking lot. The Board notes that the area which has the lower than required lighting level is an area of low pedestrian use (and there are no pedestrian crossings in the said area). Rather, the said area (where the less than required lighting exists) is located on the perimeter of the site, in what is, technically, an overflow parking area. As such, under the aforesaid circumstances, the Board finds that the requested waiver (for a lower than required lighting intensity), in one portion of the parking area, can be granted without causing substantial detriment to the public good.
- The Board is also aware that the Application as presented also requires a Design Waiver for the Maximum Illumination at the Property Line. Specifically, the Prevailing Borough Regulations provide that the maximum illumination at the property line shall be 0.1 ft. candles. In the within situation, however, the Applicant is proposing an illumination intensity of 0.6 ft. candles at the property line. Initially, the Board notes that the said deviation, is, under the circumstances, de-minimis in nature. Likewise, the Board finds that that a slightly higher than required lighting intensity at the property line will promote safety and security. As such, the Board finds that the requested Waiver relief (regarding Maximum Illumination at the Property Line) is justified.

- Towards that end, the Board Members are aware that because Oceanport Way (in the vicinity of the development site) is currently not illuminated, there is a need to modify / exceed the otherwise Prevailing Minimum Lighting Standards.
- Given the situation that Oceanport Way is not currently illuminated, and there will be a need for the same to be illuminated (in conjunction with the within approval), the lighting levels (slightly exceeding the minimum brightness standards) is appropriate.
- Under the circumstances, approving greater than required minimum lighting requirements will likely render the site safer.
- The Applicant's proposed illumination levels are safe and reasonable.
- As referenced, the lack of current lighting on Oceanport Way helps justify the Design Waiver relief approved herein.
- The Design Waiver relief approved herein will not compromise pedestrian / vehicular access to the site, exit from the site, or site circulation.
- The Board Members also recognize that pursuant to the subject Design Waiver, the Applicant only exceeds the minimum light standards by a minimal amount.
- Additionally, the Board notes that there is a rather significant JCP&L easement which runs near/through/next to the subject Development site – and that the Applicant has no authority to install light poles in the said area.
- In conjunction with the above point, the Board recognizes that the Applicant cannot place compliant light poles on property which the applicant herein does not own / control.
- The Board Members recognize that in light of the pedestrian and vehicular activity which will be occurring onsite, there is a need for the Applicant's lighting illumination to be appropriate and safe. The Board finds that granting the requested Design Waivers (relative to lighting) will not compromise the overall interests of the Borough of Oceanport, or the residents of Oceanport. In fact, the Applicant's proposed lighting scheme will actually help improve the overall public safety.
- The Board notes that per the revised Plans, the Applicant will provide a sufficient number of bicycle racks (inside bicycle racks) so as to satisfy the Prevailing Standards (and / or so as to satisfy modified design standards embraced by FMERA).
- The Board notes that the Prevailing Regulations require the installation of bicycle racks – and that the Applicant herein is installing such bicycle racks.
- Though the bicycle racks are, per the Prevailing Regulations, required to be inside, in the within situation, the proposed bicycle racks will be located outside (and hence, the need for a Design Waiver). Under the circumstances, the Board finds that it is appropriate for the site to have bicycles racks, and, in the within situation, exterior bicycle racks are acceptable and appropriate. As

such, the Board finds that the requested Waiver can be granted without causing substantial detriment to the public good.

- The Board is aware that the Prevailing Fort Monmouth Economic Revitalization Authority Regulations permit the granting of Design Waivers / Exceptions when either the literal enforcement of a particular regulation is impractical; or when literal enforcement of the design regulations will exact undue hardship. Upon critical review of the matter, and subject to the conditions set forth herein, the Board finds that the Design Waivers requested herein, and approved herein, are reasonable, and will not compromise public health or safety.
- One purpose of the Municipal Land Use Law encourages the approval of Applications which provide for, or otherwise guide, the appropriate use or development of all lands in the State, in manner which promotes the Public Health, Safety, and General Welfare. The Board finds that, subject to the conditions contained herein, approval of the within Application will advance such a purpose. Specifically, historically appropriate renovation of the historically noteworthy Commissary Building, and the adaptive reuse of the same for modern residential purposes, will, in fact advance the general welfare.
- One purpose of the Municipal Land Use Law encourages the approval of Applications which provides sufficient space in appropriate locations for a variety of uses – and, subject to the conditions set forth herein, the Board finds that approval of the within Application will advance such a purpose. Specifically, per the testimony and evidence presented, and subject to the conditions contained herein, there is sufficient space to accommodate the Applicant's proposed uses on the site (as evidenced by the more than compliant parking, and the overwhelming compliance with other prevailing bulk conditions, etc.).
- Per the testimony and evidence presented, and subject to the conditions contained herein, the Board finds that the demolition of the existing site and reconstruction for use as a modern / permitted use, is appropriate for the site (in accordance with the operational parameters testified to at the Public Hearing.)
- One purpose of the Municipal Land Use Law encourages the approval of Applications which promote the design of transportation routes which encourage the free flow of traffic, with an efficient traffic circulation plan. Subject to the conditions contained therein, the Board finds that approval of the within Application will advance such a purpose. Specifically, the Applicant's representatives provided more than sufficient parking spaces to accommodate the Applicant's proposed uses which will, in turn, help promote a safe and efficient traffic circulation flow in conjunction with the Applicant's proposal.
- One purpose of the Municipal Land Use Law encourages Applications to be approved which promote a desirable visual environment with good civic design standards and arrangements. Subject to the conditions contained herein, the Board finds that approval of the within Application will advance such a purpose. Specifically, 5 existing / compromised / underutilized buildings will be demolished and replaced with 3 brand new Code-Compliant buildings, which

will be beneficial for the site, the neighborhood, and the Borough of Oceanport as a whole.

- The aforesaid architectural and aesthetic improvements will help beautify the site.
- The Board is also aware that the renovations approved herein will result in a building which is fully compliant with Prevailing Building / Construction / Fire Code Regulations.
- Based upon the testimony and information presented, the Board finds that approval of the within Application is consistent with the FMERA Reuse Plan, as amended. Specifically, as the same relates to the within tract, the FMERA Reuse Plan, as amended, provides the following:

“This amendment does not purport to delete any provisions of the Reuse Plan, but rather supplements the Plan by proposing alternative development scenarios for the parcels in the Fort area as shown on Appendix B. Under N.J.A.C. 19:31C-3.19(a)(1), principal land uses permitted in the Reuse Plan are specifically permitted under the Land Use Rules. Thus, this amendment is incorporated into the Land Use Rules of the Reuse Area in a manner similar to an “overlay zone”, whereby an alternative set of requirements are superimposed on the area allowing for alternative land use scenarios to be realized. With regard to the alternative land use scenario, the overlay zoning provides alternative opportunities for development that do not apply unless the land is developed in accordance with the purposes for which the overlay zoning is adopted.”

The Board finds that subject to the conditions contained herein, approval of the within Application will, in fact, advance the spirit and intent of the aforesaid purposes.

- In accordance with the FMERA Reuse Plan, the Board finds that, subject to the conditions contained herein, approval of the subject Application will aid FMERA in its efforts to attract suitable ventures which wish to relocate to the former Fort Monmouth site, and such ventures which also have the potential to replace jobs which were lost when the former army base was closed.
- In accordance with the FMERA Reuse Plan, the Board finds that approval of the within Application will, subject to conditions contained herein, help attract visitors to the Fort Monmouth site.
- In accordance with the FMERA Reuse Plan, the Board is aware that approval of the within Application will generally advance the FMERA goal/objective of creating an extensive system of bikeways, pedestrian trails, and sidewalks, circulating throughout the former army base site.
- The landscaping plan approved herein will help beautify the site. Specifically, per the testimony and evidence presented, in conjunction with the within renovation, the Applicant’s representatives will be planting significant

landscaping at the site which will help significantly improve the overall aesthetic appeal of the site/property.

MISCELLANEOUS FINDINGS

- The Board is aware that the Applicant's proposed uses are permitted under the Prevailing FMERA Land Use Regulations, as amended.
- The Applicant has a proven track record of successful development.
- The Applicant's representatives have, throughout the entire development process, worked in good-faith with municipal representatives – and the Planning Board appreciates the good-faith efforts in the said regard.
- Throughout the Public Hearing process, the Applicant's representatives have in good-faith, expressed a willingness to reasonably cooperate with the Board, to revise the Plans in accordance with Board requests, and to consider other design options when available – all of which resulted in a better overall proposal.
- Throughout the Public Hearing process, the Applicant's representatives have addressed a majority of Board concerns, and either revised the Plans accordingly, or agreed to revise the Plans (as a condition of the within approval), which will ultimately minimize any adverse impacts otherwise associated with the proposal approved herein.
- As a result of the Applicant's good-faith commitment to work with the Borough / Planning Board to address legitimate development / design concerns, the Applicant's representatives have caused the Plans to be revised on a number of occasions, arranged for Phase I and Phase 3 Plans to be prepared / submitted on an expedited basis, and appeared at 2 extensive Planning Board Hearings. The Board appreciates the Applicant's ability and willingness to work with the Board.
- The site will be appropriately landscaped (subject to the conditions set forth herein).
- There will be sufficient landscaping throughout the development site, as necessary / appropriate.
- One purpose of the Municipal Land Use Law encourages the approval of Applications which, under appropriate circumstances, result in the creation of a variety of commercial uses, in appropriate locations. Based upon the Prevailing circumstances, and based upon the Prevailing FMERA Regulations/ Reuse Plan (as amended), the Board finds that the subject development site is an appropriate host site for the proposed Development.
- To a large extent, the renovation associated with the within Approval will take place on land which has already been developed. Thus, subject to the

conditions noted herein, approval of the within Application will allow appropriate development to occur with little or no adverse impact on the environment.

- The Board recognizes that the Borough's Master Plan essentially (and generally) encourages the approval of Applications which enhance various neighborhoods throughout the Borough by providing for appropriate redevelopment, reinvestment, revitalization, and capital improvements, all designed to strengthen and improve the fabric of each area. For the reasons set forth herein, the Board finds that the approval of the within Application will, essentially, advance such general / presumed Master Plan objectives.
- The Board is also aware that the Borough's Master Plan essentially encourages the approval of Applications which promote a cooperative approach to economic development and revitalization through investment, maintenance, and reinvestment in existing areas – and, for the reasons set forth herein, the Board finds the approval of the within Application will generally advance such a presumed Master Plan goal / objective.
- Subject to the conditions set forth herein, approval of the within Application will not impair the character of the existing area.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining property owners and thus, the Application can be granted without causing substantial detriment to the public good.
- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented and modified satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(C) (Bulk Variances).
- Subject to the conditions contained herein, the Application as presented and modified satisfies the Preliminary and Final Major Site Plan Requirements of the Borough of Oceanport.

Based upon the above, and subject to the conditions contained herein, the Board is of the unanimous opinion that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicant's representatives have agreed, to comply with the following conditions:

NOTE: Unless otherwise indicated herein, all Plan revisions shall be acceptable to the Board Engineer.

- a. The Applicant shall comply with all commitments, promises, and representations made at or during the Public Hearing process.
- b. Unless otherwise indicated during the public hearing process, the Applicant shall comply with the terms and conditions of the ENGenuity Review Memorandum, dated September 15, 2021 (A-16).
- c. The Applicant's representatives shall cause the plans to be revised so as to portray and confirm the following:
 - The inclusion of a note confirming that the lift station / sewer pump station shall be maintained until the same is no longer needed (as determined by FMERA or the Two Rivers Water Reclamation Authority);
 - The inclusion of a note confirming that the Applicant shall, at the Applicant's cost, convert to the sewer system when the sewer system is installed;
 - The inclusion of the true / actual location of all fire hydrants;
 - The inclusion of a note confirming that small trees / shrubs shall be planted (and / or other screening devices installed) around the "hot box" and the trash enclosure (the details of which shall be reviewed and approved by the Board Engineer);
 - Confirmation that the light fixtures (along Oceanport Way) shall be consistent with other existing Borough lighting fixtures.;
 - Unless otherwise waived by the by the Borough of Oceanport or the Oceanport Planning Board, representatives of the Borough of Oceanport shall provide the Applicant with the cross-section of the roadway. Unless waived by the Oceanport representatives, Oceanport officials shall review the cross-section details with FMERA Representatives. In the event the FMERA Representatives approve the said cross section details, then, in that event, the Applicant shall incorporate the same into the plans, and the same shall be built/constructed by the Applicant, at the Applicant's cost. In the event the said cross section details are not approved by FMERA, then, in that event, the Applicant shall, at the cost of the Applicant, build/construct the cross section details, as approved by FMERA, or any other Agency having jurisdiction over the matter. (The said obligation may be further referenced and clarified in the to be executed Developer's Agreement.) ~~The inclusion of a cross-section of the curb to curb details for Oceanport Way;~~
 - The inclusion of turning movement details, the thru-lane width, and other related details (which shall be reviewed and approved by the Board Engineer);

- The inclusion of the bicycle rack width on the Plans (which shall be coordinated with appropriate Borough / FMERA officials);
 - The elimination of ~~the one~~ parking stall adjacent to Building “C” (so as to promote / facilitate pedestrian crossing) (The same will result in 187 overall parking spaces at the site.);
 - ~~The potential relocation of ADA spaces for Building “C” (to be reviewed and approved by the Board Engineer in consultation with the Applicant’s representatives);~~**(KEK to review/clarify with the Board)**
 - The inclusion of handicap-ramps (where necessary) (subject to the review and approval of the Board Engineer);
 - The submission of lighting / landscaping issues, as set forth in the Board Engineer’s Review Memorandum (A-16);
 - The inclusion of additional landscaping at the site (with the understanding that no landscaping will be placed/planted in the JCP&L Easement Area);(The purpose of the same is to partially screen the lift station, the transformer, and the water meter enclosure);
 - The inclusion of a note confirming that all signs shall comply with Prevailing Zoning Regulations;
 - The inclusion of any necessary / applicable Sight Triangle Easement, as deemed necessary by the Board Engineer;
 - Confirmation that the air conditioning condensers on the roof shall be appropriately screened, with the ultimate review and approval of the Board Engineer;
 - The inclusion of a note confirming that warehouse use at the site shall not (in the aggregate) exceed the required percentages as set forth in the Prevailing FMERA Land Use Regulations.
 - The inclusion of a note confirming that any truck idling at and around the site shall comply with Prevailing Regulations.
 - The inclusion of a note confirming that the Applicant’s representatives shall comply with the lighting concerns, as set forth in the Review Memorandum of the Board Engineer.
 - The inclusion of a note confirming that if requested by the Borough of Oceanport, the Applicant shall, at no cost, provide the Borough of Oceanport with Title 39 Jurisdiction over the property.
- d. The Applicant’s representatives shall comply with, and not violate, any Prevailing Provisions of the existing JCP&L Easement on / through the subject property.

- e. The Applicant's representatives shall, at the Applicant's cost, secure private garbage collection at the site.
- f. ~~The Applicant's representatives shall, in good faith, work with FMERA, and / or Agents thereof, so as to reconstruct Oceanport Way.~~
- g. The Applicant's representatives shall provide truck-turning templates for the review and approval of the Board Engineer.
- h. The Applicant's representatives shall satisfactorily address the stormwater management concerns of the Board Engineer, as set forth in the testimony at the Public Hearings and as set forth in the Review Memorandum (A-16).
- i. The Applicant's representatives, and any successor owners / tenants / operators, etc. shall comply with any Prevailing Hour of Operation Restrictions as established by the Borough of Oceanport.
- j. The Applicant's representatives shall relocate the electric vehicle charging station, per the terms and conditions of the Board Engineer Review Memorandum.
- k. The to – be -executed Developer's Agreement shall, include, among other things, a provision detailing the Applicant's obligation ~~The Applicant's representatives shall, in good faith, to attempt to facilitate a meeting or meetings between the Borough of Oceanport, JCP&L, FMERA, and other appropriate entities / individuals so as to attempt to establish / identify / create uniform lighting standards for the Oceanport Way.~~
- l. The Applicant's representatives shall, in good faith, petition FMERA representatives so as to ascertain if a physical connection / walkway path is needed / necessary / advisable to the foot bridge near the Applicant's property. In the event FMERA representatives advise that such a physical connection / walking path is required, then, in that event, the Plans shall be revised accordingly. Additionally, within 180 days of the adoption of the within Resolution, the Applicant's representatives shall report back to the Board Secretary as to any substantive developments in the said regard.
- m. There shall be no outside storage of material on the property – and the various Tenant Leases shall contain a confirming prohibition against the same.
- n. There shall be no overnight truck parking on the site (except that overnight truck parking is permitted in the designated loading areas, in the rear of the buildings).
- o. The exterior lighting system throughout the site shall be placed on a timer or other such control which will permit the scheduled operation of the light fixtures.
- p. The Applicant's representatives shall, in good faith, and with the requested cooperation of FMERA, the Borough of Oceanport, the County of Monmouth, the State of New Jersey, and any other Agency having jurisdiction over the matter, direct heavy truck traffic to County Route 537, which is a higher order roadway (as opposed to Anson Avenue / Razor Avenue). Minimal efforts in the said regard shall include, but not be limited to, the following:

- The installation of appropriate restrictions / regulations in the Lease documents with the proposed Tenants, and any renewal / extensions thereof;
 - A good faith attempt to petition the Borough of Oceanport to place a sign on Anson Avenue which will direct truck traffic to Route 537. The installation of appropriate signage at the site (including signs on Anson Avenue and Main Street);
 - A good faith attempt to petition FMERA and the Borough of Oceanport to place a sign on Main Street (directing truck traffic to Route 537) and to create/impose appropriate weight limit restrictions on appropriate roadways. (The said obligation can be further clarified and addressed in the to be executed Developer's Agreement.
 - The petitioning of appropriate Municipal / State / County / FMERA Representatives to place a weight limit on vehicles traveling on / over Anson Avenue / Razor Avenue;
 - A directive that (unless otherwise agreed by the Borough / Board) trucks entering the Applicant's site shall enter the Fort Monmouth Complex from the Route 35 main gate (Eatontown, NJ) – and that such a restriction shall be included in the various leasing documents;
 - Confirmation that between 8:00 p.m. and 7:00 a.m. (7-days a week), there shall be limited / no deliveries to / from the site. **(Note: The Applicant's representatives and Board Attorney/Engineer are still discussing the said provision, and the Board will need to be consulted as well.)**
- q. The Applicant shall, in good faith, comply with any directives / regulations for the pedestrian pathway (associated with the off-site foot bridge), as required by the Borough of Oceanport, FMERA, the State of New Jersey, the Army Corp of Engineers, the United States of America, and / or any other agency having jurisdiction over the matter. (The Board is aware that formal site plan approval is not required for the addition of such a pedestrian pathway, although all such details will need to be reviewed and approved by the Board Engineer.)
- r. Given the importance of the situation and the inter-related nature of the Phase 1, Phase 2, and Phase 3 aspects of the development, the Applicant shall diligently, and in good-faith, pursue the Phase 1 and Phase 3 approvals of the within site, in accordance with the parameters of the to-be-negotiated Developer's Agreement with the Borough of Oceanport.
- s. The Applicant's representatives shall comply with the FMERA Re-Use Plan, and Amendments associated therewith, and any uses at the site shall specifically be uses which are permitted under the Prevailing FEMA Regulations.
- t. The Applicant's representatives shall obtain any and all necessary / applicable demolition permits as the Borough of Oceanport (and any other Agency having jurisdiction over the matter) may require.

- u. The Applicant's representatives shall, in good faith, work with the Board Engineer so as to coordinate the Stormwater Management Improvements, as shown on the approved plans.
- v. The Applicant's representatives, shall perpetually maintain, replace, and replant landscaping at the site, as necessary to maintain the landscaping aesthetics for the property, as contemplated by the approved Plan (and / or as otherwise testified to during the Public Hearing process).
- w. The approval granted herein shall comply with all applicable Prevailing FMERA Regulations and the FMERA Mandatory Conceptual Review approval.
- x. ~~The Applicant's representatives shall secure any and all historic preservation approvals as may be required for many local / county / FMERA / state / national entity, and any other such Agencies having jurisdiction over historic related matter.~~
- y. The Applicant shall comply with all prevailing/applicable Affordable Housing Rules, Regulations, Directives, and Contributions, as required by the State of New Jersey, COAH, the Borough of Oceanport, the Court System, and any other Agency having jurisdiction over the matter.
- z. Any Easements required / provided hereunder, if any, shall be reviewed and approved by the Board Engineer and Board Attorney. Upon such review and approval, any such required / provided Easements shall be recorded in the Office of the Monmouth County Clerk – and proof of same shall be submitted to the Board Secretary.
- aa. If requested by the Borough of Oceanport, the Applicant shall sign a Developer's Agreement – and the said Agreement shall be reviewed and approved by the Borough Attorney, the Borough Engineer, and the Borough Council of the Borough of Oceanport.
- bb. The Applicant's representatives shall, in good-faith, meet with the Municipal Bureau of Fire Prevention representatives so as to review / address fire-related concerns, and so as to confirm review and approval of the project by the Municipal Fire Officials.
- cc. In conjunction with the construction process, the Applicant's representatives shall have a pre-construction meeting with Municipal representatives (including Police representatives) so as to appropriately identify, establish, and enforce mutually agreeable construction access routes, and other construction-related details (so as to minimize / limit any construction disturbance to the other residents in the former Ft. Monmouth Complex).
- dd. The Applicant shall comply with any and all applicable ~~Prevailing~~ ADA Requirements.
- ee. In conjunction with the construction process, the Applicant shall obtain any applicable permits/approvals as may be required by the Borough of Oceanport - including, but not limited to, the following:
 - Building Permits
 - Plumbing Permits

- Electric Permits
 - Fire Permits
- ff. The Applicant shall comply with all Prevailing FEMA / Flood Regulations.
- gg. Unless otherwise waived by the Board Engineer, the Applicant shall submit Grading / Drainage Plans (for the review and approval of the Board Engineer), so as to confirm that the same will have no adverse impact on the site or the surrounding properties
- hh. The construction shall be strictly limited to the Plans which are referenced herein, and which are incorporated herein at length. Additionally, the construction / renovation shall comply with Prevailing Provisions of the Uniform Construction Code.
- ii. The Applicant shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Municipal Project Assistant, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.
- jj. The Applicant shall obtain any and all approvals from applicable outside agencies - including, but not limited to, the Federal Government, the State of New Jersey, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District, etc. Additionally, to the extent the application materially changes as a result of any of the aforesaid outside approvals, then, in that event, the Applicant shall be required to return to the Board for further review / relief.
- kk. The Applicant shall, to the extent necessary, secure any applicable RSIS Exemption Approvals as may be required by the State of New Jersey.
- ll. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees, taxes, and charges.
- mm. The within conditions/restrictions shall be binding on any successor owners, tenants, operators, etc. (to be liberally construed).

SUMMARY OF VARIANCE RELIEF GRANTED

TRASH ENCLOSURE LOCATION: The Board has authorized the trash enclosure to be located in a front yard area;

HEIGHT OF FREE-STANDING LIGHTS: The Board has authorized freestanding lights with mounting heights of 20 ft. and 25 ft.;

HEIGHT OF BUILDING MOUNTED LIGHTS: The Board has authorized building mounting lights with a height of 22 ft.;

MAXIMUM ILLUMINATION AT PROPERTY LINE: The Board has authorized an illumination intensity of 0.6 ft. candles at the property line;

LIGHTING INTENSITY: The Board has authorized a minimum illumination intensity of 0.3 ft. candles, per the approved plans;

BUILDING SETBACKS: The Board has authorized building setbacks ranging from 82.1 ft. and 245 ft., as set forth in the approved Plans;

BICYCLE RACK DETAILS: The Board has authorized the installation of outdoor bicycles racks, as forth on the Plans.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant and/or its agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicant's representatives contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

BE IT FURTHER RESOLVED, that the granting of the within Application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate Rules, Regulations, and / or Ordinances of the Borough of Oceanport, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Oceanport, the Borough of Oceanport, or their agents/representatives accept any responsibility for the structural design of the proposed improvements, or for any damage which may be caused by the development / renovation.

This resolution memorializes an action taken at the regular meeting of the Oceanport Planning Board held on October 18, 2021 on roll call that evening by the following vote:

Offered by: _____

Seconded by: _____

ROLL CALL	YES	NO	ABSTAIN	ABSENT	INELIGIBLE
Widdis	()	()	()	()	()
Whitson	()	()	()	()	()
Davis	()	()	()	()	()
Tvrdik	()	()	()	()	()
Foster	()	()	()	()	()
Kleiberg	()	()	()	()	()
Kahle	()	()	()	()	()
Savarese	()	()	()	()	()
Cooper	()	()	()	()	()
Dailey (Alt. 1)	()	()	()	()	()

This resolution was offered by _____, seconded by _____, and adopted on roll call by the following vote:

ROLL CALL	YES	NO	ABSTAIN	ABSENT	INELIGIBLE
Widdis	()	()	()	()	()
Whitson	()	()	()	()	()
Davis	()	()	()	()	()
Tvrdik	()	()	()	()	()
Foster	()	()	()	()	()
Kleiberg	()	()	()	()	()
Kahle	()	()	()	()	()
Savarese	()	()	()	()	()
Cooper	()	()	()	()	()
Dailey (Alt. 1)	()	()	()	()	()

I hereby certify that the foregoing Resolution was adopted by the Planning Board of the Borough of Oceanport at its meeting of November 16, 2021.

Jeanne Smith, Secretary

KEK/dmp
Z:\KevinKennedyLaw\Municipal\Oceanport Planning Board\Oport Partners, LLC - Phase II\Resolution.docx



Planning/Zoning Combined Board

PO Box 370
Oceanport, NJ 07757

SCHEDULED

RESOLUTION - PB 21-34

8.2

Meeting: 11/16/21 07:00 PM
Department: Planning/Zoning Board
Category: PB Resolutions
Prepared By: Jeanne Smith
Initiator: Jeanne Smith
Sponsors:
DOC ID: 2232

Resolution of Approval - 27 Burnt Mill Circle/Corsi

RESOLUTION

**BOROUGH OF OCEANPORT PLANNING BOARD
APPROVAL OF THE APPLICATION OF MICHAEL CORSI
27 BURNT MILL CIRCLE, BLOCK 136, LOT 46
APPROVAL DATE: NOVEMBER 9, 2021
MEMORIALIZATION DATE: NOVEMBER 16, 2021**

INTRODUCTION

WHEREAS, Michael Corsi has made Application to the Oceanport Planning Board for the property designated as Block 136, Lot 46, commonly known as 27 Burnt Mill Circle, Oceanport, New Jersey, within the Borough's R-2 Zone, for the following approval: Bulk Variance associated with a request to construct a front porch; and

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on November 9, 2021, Applicant having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Oceanport Planning Board Development Application, introduced into Evidence as A-1;*
- *Survey, prepared by Charles V. Bell Associates, Inc., dated May 6, 2017, introduced into Evidence as A-2;*
- *Architectural Plans, entitled "Corsi Residence, proposed Residential Renovation and Addition", unsigned, last revised May 4, 2021, consisting of 4 sheets, introduced into Evidence as A-3;*
- *Illustrated Rendering of the building (front view), undated, introduced into Evidence as A-4;*
- *Review Memorandum from Colliers Engineering & Design, dated October 12, 2021, introduced into Evidence as A-5;*
- *Affidavit of Service;*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, sworn testimony in support of the Application was presented by the following:

- Michael Corsi, P.E., Applicant, appearing pro se;

WHEREAS, William H.R. White, III, P.E., P.P., CME, the Board Engineer, was also sworn with regard to any testimony and information he would provide in connection with the subject Application; and

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANT

WHEREAS, testimony and other evidence presented by the Applicant revealed the following:

- The Applicant is the owner of the subject property.
- The Applicant has owned the subject property for approximately 4 ½ years.
- There is an existing single-family home at the site.
- The Applicant lives at the site.
- In order to increase the amount of living space, and in order to make the existing home more functional, the Applicant is in the process of renovating the existing structure. (No Variance relief is required in connection with the ongoing renovations.)
- In conjunction with the renovation work, the Applicant also proposes to construct a front porch, which does trigger the need for Variance relief.
- Details pertaining to the proposed porch include the following:

Size:	Per Plans
Location:	Front of home, setback 23.33 ft. off of Burnt Mill Circle.
Materials:	Per Plans, including hardy board
Covered?:	The proposed front porch will be covered.
Enclosed?:	The proposed porch will not be enclosed.
Height:	14' 8"

- The Applicant will be utilizing licensed contractors in connection with the renovation / construction process.
- The Applicant anticipates that the work will be completed in the near future.

VARIANCE

WHEREAS, the Application as submitted requires approval for the following Variance:

FRONT YARD PORCH SETBACK: 24 ft. required; whereas 23.33 ft. proposed.

PUBLIC COMMENTS

WHEREAS, there were no public comments, questions, or objections associated with the subject Application;

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the members of the Oceanport Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Oceanport Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Oceanport Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 27 Burnt Mill Circle, Oceanport, New Jersey, within the Borough's R-2 Zone.
3. The subject property contains 31,561 SF (0.72 acres).
4. The subject parcel is located on the southwest side of the outer portion of the Loop Road, approximately 150 ft. south of the intersection with Evergreen Lane.
5. In conjunction with an ongoing renovation project, the Applicant proposes to construct a front porch.
6. Such proposal requires Bulk Variance Approval.
7. The Oceanport Planning Board is statutorily authorized to grant the requested relief, and therefore, the matter is properly before the said entity.
8. With regard to the Application, and requested relief, the Board notes the following:

- Per the testimony and evidence presented, there is need for a porch at the site.
- The proposed porch is permitted in the Zone.
- The addition of the front porch approved herein will add architectural character and appeal to the existing home.
- The addition of the front porch approved herein will help improve the overall curb appeal of the structure.
- The front porch will provide the Applicant with some needed / requested outdoor living space.
- The proposed porch requires a Variance for the Front Yard Setback. Specifically, a 24 ft. Front Yard Setback is required; whereas 23.33 ft. is proposed.
- The Board is aware that the Front Yard Setback deviation is only .67 of a foot.
- Under the circumstances, the Board finds that the .67 ft. deviation is de-minimus in nature.
- The Board recognizes that the Front Yard Setback deviation (only .67 of a foot) represents a minimal deviation, with no adverse impact on the site, the neighborhood, or the community as a whole.
- The Board recognizes that the .67 foot deviation will be hardly perceptible / noticeable from the street and / or adjacent properties.
- The Board recognizes that the .67 foot deviation is a minimal deviation.
- Notwithstanding the minimal Front Yard Setback deviation, the Board recognizes that there is also a school of thought which suggests that the Applicant revise the Plans so as to eliminate / cure the minimal .67 foot deviation (so as to comply with the Prevailing Zoning Regulations).
- The Board Members considered the above-referenced analysis in the review of the Application.
- The aforesaid analysis is appropriate to employ in the context of a Variance Application.
- The Board recognizes that a further reduction in the size of the front porch (so as to comply with the Prevailing Front Yard Setback Requirements) would likely compromise the overall functionality / aesthetic appeal of the porch.
- Under the circumstances, the Board recognizes that there is no real or practical option to reduce the size of the proposed porch (without materially compromising the overall functionality / aesthetic appeal of the same).
- The subject property is not shaped like a traditional square or rectangle. Rather, the property has an octagonal-like irregular shape.

- The property does not have a straight frontage on / along Burnt Mill Circle. Rather, the subject property is located on the outer portion of the Burnt Mill Circle "Loop."
- The unusual property shape and the curved nature of the roadway compromise the ability of Applicant to satisfy the Prevailing Front Yard Setback Requirement.
- The front porch approved herein will add architectural character to the home.
- The front porch approved herein is not unduly large or overbearing, particularly in light of the size of the property.
- The Front Yard Setback deviation will not knowingly interfere with the view of any neighboring properties.
- The Front Yard Setback deviation approved herein will likely be imperceptible to the naked eye.
- The very minor Front Yard Setback deviation approved herein will not compromise the streetscape, or the appearance of the same.
- Additionally, notwithstanding the Variance, the Board notes that the location of the proposed porch is practical, appropriate, and aesthetically pleasing.
- The proposed porch will be attractive, aesthetically pleasing, and upscale, in accordance with Prevailing Community Standards.
- The Board notes that there were no public objections in connection with the subject Application.
- Approval of the within Application will enhance / improve the quality of life for the Applicant, and his family.
- Under the circumstances, the construction of the proposed porch in the specified location, represents sound planning.
- Approval of the within Application will not materially intensify the existing, and to-be-continued, single-family nature of the home / site.
- The porch approved herein represents an appropriate balance between the competing needs / desires to a) construct a modern / functional porch, and b) comply, or more closely comply, with the Prevailing Bulk / Zoning Requirements.
- The subject lot is an appropriate site for a single-family home and porch.
- Continued single-family and porch use at the site is consistent with the Borough's Master Plan.
- Continued single-family and porch use at the site is consistent with the character of the neighborhood.

- Approval of the within Application will allow a brand-new porch to be built at the site (in conjunction with other improvements).
- The new porch approved herein will satisfy all prevailing / updated / applicable Building Code Regulations, Construction Code Regulations, and Flood regulations.
- There are essentially no other practical / viable locations (on the site) for the porch to be located, but for that which is proposed by the Applicant.
- The new porch approved herein will not overpower or overwhelm the site or the neighborhood.
- Per the testimony and evidence presented, other development options were reviewed and considered, but the same were not practical / feasible.
- The Plans approved herein are reasonable, given the site constraints, given the location of the existing home, and given the Applicant's need / desire for a porch.
- The proposed location for the Applicant's new porch is logical and practical.
- Subject to the conditions contained herein, the new porch approved herein will not have any significant detrimental impact on adjoining property owners.
- Approval of the subject Application will not appreciably intensify the historic single-family use at the Site. Consequently, the Board is of the collective opinion that the requested relief can be granted without impairing the intent or purposes of the Borough Zoning Plan / scheme.
- Subject to the conditions contained herein, approval of the within Application will improve the overall appearance of the area.
- Additionally, the architectural / aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicant's inability to comply with all of the specified Bulk Zoning Standards.
- The architectural design of the new porch will not be inconsistent with the architectural character of other porches in the area (on similarly sized Lots).
- Sufficiently detailed Plans were submitted.
- Subject to the conditions contained herein, the location of the proposed porch will minimize, to the greatest extent possible, any disturbance to the neighboring properties.
- Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated therewith.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining property owners and thus, the

Application can be granted without causing substantial detriment to the public good.

- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfied the statutory requirements of N.J.S.A. 40:55D-70(C) (Bulk Variance).

Based upon the above, and subject to the conditions contained herein, the Board is of the unanimous opinion that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicant has agreed, to comply with the following conditions:

- a. The Applicant shall comply with all commitments, promises, and representations made at or during the Public Hearing process.
- b. The Applicant shall comply with the terms and conditions of the Board Engineer Review Memorandum, dated October 12, 2021 (A-5).
- c. The within approval shall be deemed abandoned, unless, within 24 months of the adoption of the within Resolution (or any extension formally authorized by the Planning Board), the Applicant obtains a Building Permit for the construction approved herein.
- d. If applicable, the Applicant shall comply with all prevailing Affordable Housing Rules, Regulations, Directives, and Contributions, as required by the State of New Jersey, COAH, the Borough of Oceanport, the Court System, and any other Agency with jurisdiction over the matter.
- e. The Applicant shall obtain any applicable permits / approvals as may be required by the Borough of Oceanport - including, but not limited to, the following:
 - Building Permit
 - Plumbing Permit
 - Electric Permit
 - Fire Permit
- f. The Applicant shall comply with the terms and conditions of the Colliers Engineering and Design Review Memorandum, if any.
- g. The Applicant shall comply with all Prevailing / applicable FEMA / Flood Regulations.

- h. Unless otherwise waived by the Board Engineer, the Applicant shall submit Grading / Drainage Plans (for the review and approval of the Board Engineer), so as to confirm that the same will have no adverse impact on the site or the surrounding properties
- i. The construction / installation shall be strictly limited to the Plans which are referenced herein, and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- j. The Applicant shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.
- k. The Applicant shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District. Additionally, to the extent the application materially changes as a result of any of the aforesaid outside approvals, then, in that event, the Applicants shall be required to return to the Board for further review / relief.
- l. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant and/or his agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

BE IT FURTHER RESOLVED, that the granting of the within Application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate Rules, Regulations, and/or Ordinances of the Borough of Oceanport, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Oceanport, the Borough of Oceanport, or their agents /

representatives accept any responsibility for the structural design of the proposed improvements, or for any damage which may be caused by the development.

SUMMARY OF GRANTED VARIANCE RELIEF

FRONT YARD PORCH SETBACK: 24 ft. Front Yard Setback required for a porch; whereas 23.33 ft. approved.

This resolution memorializes an action taken at the regular meeting of the Oceanport Planning Board held on November 9, 2021 on roll call that evening by the following vote:

Offered by: _____

Seconded by: _____

ROLL CALL	YES	NO	ABSTAIN	ABSENT	INELIGIBLE
Widdis	()	()	()	()	()
Whitson	()	()	()	()	()
Davis	()	()	()	()	()
Tvrdik	()	()	()	()	()
Foster	()	()	()	()	()
Kleiberg	()	()	()	()	()
Kahle	()	()	()	()	()
Savarese	()	()	()	()	()
Cooper	()	()	()	()	()
Dailey (Alt. 1)	()	()	()	()	()
Kelly (Alt. 2)	()	()	()	()	()

This resolution was offered by _____, seconded by _____, and adopted on roll call by the following vote:

ROLL CALL	YES	NO	ABSTAIN	ABSENT	INELIGIBLE
Widdis	()	()	()	()	()
Whitson	()	()	()	()	()
Davis	()	()	()	()	()
Tvrdik	()	()	()	()	()
Foster	()	()	()	()	()
Kleiberg	()	()	()	()	()
Kahle	()	()	()	()	()
Savarese	()	()	()	()	()
Cooper	()	()	()	()	()
Dailey (Alt. 1)	()	()	()	()	()
Kelly (Alt. 2)	()	()	()	()	()

I hereby certify that the foregoing Resolution was adopted by the Planning Board of the Borough of Oceanport at its meeting of November 16, 2021.

Jeanne Smith, Secretary



Planning/Zoning Combined Board

PO Box 370
Oceanport, NJ 07757

SCHEDULED

RESOLUTION - PB 21-35

8.3

Meeting: 11/16/21 07:00 PM
Department: Planning/Zoning Board
Category: PB Resolutions
Prepared By: Jeanne Smith
Initiator: Jeanne Smith
Sponsors:
DOC ID: 2231

Resolution of Approval - 22 Asbury Ave/Keller

RESOLUTION

**BOROUGH OF OCEANPORT PLANNING BOARD
 APPROVAL OF THE APPLICATION OF JOSEPH KELLER
 22 ASBURY AVENUE, BLOCK 92, LOT 1
 APPROVAL DATE: NOVEMBER 9, 2021
 MEMORIALIZATION DATE: NOVEMBER 16, 2021**

INTRODUCTION

WHEREAS, Joseph Keller has made Application to the Oceanport Planning Board for the property designated as Block 92, Lot 1, commonly known as 22 Asbury Avenue, Oceanport, New Jersey, within the Borough's R-4 Zone, for the following approval: Bulk Variance associated with a request to effectuate the following:

- Expansion of a side yard deck;
- Installation of a patio;

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on November 9, 2021, Applicant having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Oceanport Planning Board Development Application, introduced into Evidence as A-1;*
- *Location Land Survey, prepared by Thomas Finnegan Land Surveying, dated June 17, 2021, introduced into Evidence as A-2;*
- *Location Land Survey, prepared by Thomas Finnegan Land Surveying, dated September 22, 2021, introduced into Evidence as A-3;*
- *Architectural Deck Sketches, unsigned and undated, consisting of 4 pages, introduced into Evidence as A-4;*
- *Board Engineer Review Memorandum, prepared by Colliers Engineering & Design, dated October 20, 2021, introduced into Evidence as A-5;*

- *Affidavit of Service;*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, sworn testimony in support of the Application was presented by the following:

- Joseph Keller, Applicant, appearing pro se;

WHEREAS, William H.R. White, III, P.E., P.P., CME, the Board Engineer, was also sworn with regard to any testimony and information he would provide in connection with the subject Application; and

TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANT

WHEREAS, testimony and other evidence presented by the Applicant and his Representatives revealed the following:

- The Applicant is the owner of the subject property.
- The Applicant has owned the subject property since approximately 2020.
- There is an existing single-family home at the site.
- The Applicant does not live at the site (although the home is occupied).
- A deck previously existed at the site – and the said deck was in a compromised condition. Among other things, the stairs were rotted, the deck was dangerous, and there were other defects.
- As a result, the Applicant removed the previously existing deck and started to construct a new deck at the site.
- Because Permits were not obtained in advance, the construction was placed on hold, pending the receipt of appropriate Zoning Permits / Zoning Variances.
- The Applicant submitted the within Application to resolve the matter.
- The Applicant proposes to effectuate the following:
 - Expansion of a side yard deck;
 - Installation of a patio;
- Details pertaining to the proposed side yard deck expansion include the following:

Size of the to-be-expanded deck:	Approximately 20 ft. wide X approximately 12 ft. deep (irregular shape)
Location:	
Materials:	
Covered?:	The deck will not be covered.
Enclosed?:	The deck will not be enclosed.
Materials beneath deck:	Grass / soil / weeds

- Details pertaining to the proposed patio include the following:

Size:	Per Plans
Location:	West of deck (per Plans)
Materials:	Per Plans
Covered?:	The proposed patio will not be covered.
Enclosed?:	The proposed patio will not be enclosed.

- There is an existing 6 ft. high fence along the western portion of the property and along the southern portion of the property.
- There are 2 existing exterior light fixtures on the home – and if any additional exterior lights are added, the same will consist of a solar cap, or some other similar fixture, which is not very bright, and which will not spillover onto any adjacent properties.
- The Applicant anticipates that the work will be completed in the near future.

VARIANCE

WHEREAS, the Application as submitted, and amended, requires approval for the following

Variance:

BUILDING COVERAGE: Maximum 25% allowed; whereas 28.12% proposed.

PUBLIC COMMENTS

WHEREAS, there were no public comments, questions, or objections associated with the subject

Application;

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the members of the Oceanport Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Oceanport Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Oceanport Planning Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 22 Asbury Avenue, Oceanport, New Jersey, within the Borough's R-4 Zone.
3. The subject property is a 5,000 SF parcel on the southwest corner of the intersection of Milton Avenue and Asbury Avenue.
4. There is an existing single-family home at the site.
5. The Applicant proposes to effectuate the following:
 - Expansion of a side yard deck;
 - Installation of a patio.
6. Such proposal requires Bulk Variance Approval.
7. The Oceanport Planning Board is statutorily authorized to grant the requested relief, and therefore, the matter is properly before the said entity.
8. With regard to the Application, and requested relief, the Board notes the following:
 - The single-family use is a permitted use in the Zone.
 - Per the testimony and evidence presented, there was an existing deck at the site, which was in a compromised condition. Approval of the within Application will merely allow a brand-new deck to be re-constructed at the site.
 - Per the testimony and evidence presented, the previously existing deck was in a compromised position, with rotted stairs, and the like. The Board recognizes that the said condition constitutes a dangerous condition for the homeowners / occupants – and, as such, the Board recognizes the improved safety associated with a brand-new deck.
 - The deck approved herein is not materially larger than the previously existing deck.

- The deck and patio approved herein will add outdoor amenities for the site, which is customary in a residential Zone.
- Importantly, the patio and deck approved herein comply with the Prevailing Front, Side, and Rear Yard Setbacks.
- The deck / patio approved herein will not compromise the privacy rights of any of the neighbors.
- As initially presented, it was believed that the Application also required an Impervious Coverage Variance. Some Board Members had concerns with regard to such an Impervious Coverage Variance request. However, upon further review, the Applicant testified that the material beneath the uncovered deck consists of grass / lawn / soil / weeds. As such, the Board recognizes that the said materials are pervious and therefore, the same do not count towards overall impervious coverage. Thus, the Board recognizes that no Impervious Coverage Variance is required in connection with the subject Application.
- The Board always appreciates the elimination of Variances, whenever possible.
- The Board recognizes that the within Application involves a request for a 3.12% deviation over the allowable building coverage (28.12% - 25%).
- Under the circumstances, given the nature of the existing site, and the nature of the proposal, the Board recognizes that the said deviation is rather de-minimus in nature.
- Per the testimony and evidence presented, there is a need for a patio / deck at the site.
- The proposed patio / deck are permitted in the Zone.
- Additionally, notwithstanding the Variance, the Board notes that the location of the proposed patio / deck are practical, appropriate, and aesthetically pleasing.
- The proposed patio / deck will be attractive, aesthetically pleasing, and upscale, in accordance with Prevailing Community Standards.
- The Board notes that there were no public objections in connection with the subject Application.
- Approval of the within Application will enhance / improve the quality of life for the Applicant, and the occupants of the home.
- Under the circumstances, the construction of the proposed patio / deck in the specified locations, represent sound planning.
- Approval of the within Application will not materially intensify the existing, and to-be-continued, single-family nature of the home / site.

- The patio / deck approved herein represents an appropriate balance between the competing needs / desires to a) construct a modern / functional patio / deck, and b) comply, or more closely comply, with the Prevailing / Bulk Zoning Requirements.
- The subject lot is an appropriate site for a single-family home and patio / deck.
- Continued single-family and patio / deck use at the site is consistent with the Borough's Master Plan.
- Continued single-family and patio / deck use at the site is consistent with the character of the neighborhood.
- Approval of the within Application will allow a brand new / upgraded patio / deck to be built at the site.
- The new patio / deck approved herein will satisfy all prevailing / updated Building Code Regulations, Construction Code Regulations, and Flood regulations.
- There are essentially no other practical / viable / functional locations (on the site) for the patio / deck to be located, but for that which is proposed by the Applicant.
- The new patio / deck approved herein will not overpower or overwhelm the site.
- Per the testimony and evidence presented, other development options were reviewed and considered, but the same were not practical / feasible.
- The Plans approved herein are reasonable, given the functional site constraints, and given the Applicant's need for a patio / deck.
- The proposed location for the Applicant's new patio / deck is logical and practical.
- Subject to the conditions contained herein, the new patio / deck approved herein will not have any significant detrimental impact on adjoining property owners.
- Approval of the subject Application will not appreciably intensify the historic single-family use at the Site. Consequently, the Board is of the collective opinion that the requested relief can be granted without impairing the intent or purposes of the Borough Zoning Plan / scheme.
- Subject to the conditions contained herein, approval of the within Application will improve the overall appearance of the area.
- Additionally, the architectural / aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicant's inability to comply with all of the specified Bulk Zoning Standards.

- The architectural design of the new patio / deck will not be inconsistent with the architectural character of other similar patio / decks in the area.
- Sufficiently detailed Plans were submitted.
- Subject to the conditions contained herein, the location of the proposed patio / deck will minimize, to the greatest extent possible, any disturbance to the neighboring properties.
- Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated therewith.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining property owners and thus, the Application can be granted without causing substantial detriment to the public good.
- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfied the statutory requirements of N.J.S.A. 40:55D-70(C) (Bulk Variance).

Based upon the above, and subject to the conditions contained herein, the Board is of the unanimous opinion that the requested relief can be granted without causing substantial detriment to the public good.

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicant has agreed, to comply with the following conditions:

- a. The Applicant shall comply with all commitments, promises, and representations made at or during the Public Hearing process.
- b. The Applicant shall comply with the terms and conditions of the Board Engineer Review Memorandum, dated October 20, 2021 (A-5).
- c. There shall be no adverse light spillover associated with the project.
- d. The deck / patio approved herein shall not be enclosed, absent further / formal approval of the Planning Board.
- e. The Plans shall be revised, if necessary, so as to eliminate any reference to a need for an Impervious Coverage Variance. That is, the Applicant shall comply with the Prevailing Impervious Coverage Requirements.
- f. If applicable, the Applicant shall comply with all prevailing Affordable Housing Rules, Regulations, Directives, and Contributions, as required by the State of New

Jersey, COAH, the Borough of Oceanport, the Court System, and any other Agency with jurisdiction over the matter.

- g. The Applicant shall obtain any applicable permits / approvals as may be required by the Borough of Oceanport - including, but not limited to, the following:
- Building Permit
 - Plumbing Permit
 - Electric Permit
 - Fire Permit
- h. The Applicant shall comply with all Prevailing / applicable FEMA / Flood Regulations.
- i. Unless otherwise waived by the Board Engineer, the Applicant shall submit Grading / Drainage Plans (for the review and approval of the Board Engineer), so as to confirm that the same will have no adverse impact on the site or the surrounding properties
- j. The construction / installation shall be strictly limited to the Plans which are referenced herein, and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- k. The Applicant shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Municipal Project Assistant, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.
- l. The Applicant shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District. Additionally, to the extent the application materially changes as a result of any of the aforesaid outside approvals, then, in that event, the Applicants shall be required to return to the Board for further review / relief.
- m. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- n. The within approval shall be deemed abandoned, unless, within 24 months of adoption of the within Resolution (or any extension formally granted by the Planning Board) the Applicant obtains a Building Permit for the construction / installation approved herein.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant and/or his agents shall be deemed conditions of the approval granted herein, and any mis-representations or

actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

BE IT FURTHER RESOLVED, that the granting of the within Application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate Rules, Regulations, and/or Ordinances of the Borough of Oceanport, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Oceanport, the Borough of Oceanport, or their agents / representatives accept any responsibility for the structural design of the proposed improvements, or for any damage which may be caused by the development.

SUMMARY OF GRANTED VARIANCE RELIEF

BUILDING COVERAGE: Maximum 25% allowed; whereas 28.12% approved.

This resolution memorializes an action taken at the regular meeting of the Oceanport Planning Board held on November 9, 2021 on roll call that evening by the following vote:

Offered by: _____

Seconded by: _____

ROLL CALL	YES	NO	ABSTAIN	ABSENT	INELIGIBLE
Widdis	()	()	()	()	()
Whitson	()	()	()	()	()
Davis	()	()	()	()	()
Tvrdik	()	()	()	()	()
Foster	()	()	()	()	()
Kleiberg	()	()	()	()	()
Kahle	()	()	()	()	()
Savarese	()	()	()	()	()
Cooper	()	()	()	()	()
Dailey (Alt. 1)	()	()	()	()	()
Kelly (Alt. 2)	()	()	()	()	()

This resolution was offered by _____, seconded by _____, and adopted on roll call by the following vote:

ROLL CALL	YES	NO	ABSTAIN	ABSENT	INELIGIBLE
Widdis	()	()	()	()	()
Whitson	()	()	()	()	()
Davis	()	()	()	()	()
Tvrdik	()	()	()	()	()
Foster	()	()	()	()	()
Kleiberg	()	()	()	()	()
Kahle	()	()	()	()	()
Savarese	()	()	()	()	()
Cooper	()	()	()	()	()
Dailey (Alt. 1)	()	()	()	()	()
Kelly (Alt. 2)	()	()	()	()	()

I hereby certify that the foregoing Resolution was adopted by the Planning Board of the Borough of Oceanport at its meeting of November 16, 2021.

Jeanne Smith, Secretary

**Planning/Zoning Combined Board**

PO Box 370
Oceanport, NJ 07757

SCHEDULED**PLANNING BOARD APPLICATION (ID # 2135)**

Meeting: 11/16/21 07:00 PM
Department: Planning/Zoning Board
Category: PB Applications
Prepared By: Kelle Burrough
Initiator: Jeanne Smith
Sponsors:
DOC ID: 2135 A

PB2021-16 Barker's Circle

Block 110, Portion of Lot 1

New Block 110.20, Lot 1 - 2000 Avenue of Memories

New Block 110.21, Lot 1 - 2200 Avenue of Memories

New Block 110.22, Lot 1 - 100 Barker's Circle

New Block 110.23, Lot 1 - 200 - 500 Barker's Circle

Major Site Plan Approval

331 Newman Springs Road
Suite 203
Red Bank New Jersey 07701
Main: 877 627 3772



October 22, 2021

VIA EMAIL

Jeanne Smith, Planning Board Secretary
Borough of Oceanport Planning Board
910 Oceanport Way
P. O. Box 370
Oceanport, NJ 07757

Barkers Circle Partnership LLC
Proposed New Block 110.20, Lot 1 - 2000 Avenue of Memories
Proposed New Block 110.21, Lot 1 - 2200 Avenue of Memories
Proposed New Block 110.22, Lot 1 - 100 Barker's Circle
Proposed New Block 110.23, Lot 1 - 200 - 500 Barker's Circle
Application No. PB2021-16
Borough of Oceanport, Monmouth County, New Jersey
Colliers Engineering & Design Project No. OPP-0301

Dear Board Members,

Our office has received the following information in support of the above-referenced Application:

- Plan entitled "Boundary and Topographic Survey" prepared by Morgan Engineering & Surveying, last revised May 13, 2020, consisting of two (2) sheets.
- Plan entitled "Preliminary & Final Major Site & Subdivision Plan," prepared by Morgan Engineering & Surveying, last revised July 20, 2021, consisting of 19 sheets.
- Architectural Plans entitled "Fort Monmouth Barker Circle," prepared by Monmouth Ocean Design Experts, LLC, last revised July 19, 2021, consisting of 27 sheets.
- Report entitled "Stormwater Management Report" prepared by Morgan Engineering & Surveying and dated June 22, 2021.
- Report entitled "Stormwater Management Operations and Maintenance Manual" prepared by Morgan Engineering & Surveying and dated June 22, 2021.
- Report entitled "Environmental Impact Statement" prepared Environmental Management Group, Inc. and dated October 2021.
- Traffic Letter Report dated October 19, 2020, prepped by McDonough & Rea Associates.
- Mandatory Conceptual Review letter dated June 25, 2021.

The subject property is a ±19.5-acre parcel located in the Fort Monmouth Horseneck Center District as well the Historic District. The parcel is bordered by Oceanport Avenue to the east, Oceanport Creek to the south, Hildreth Avenue to the north, and Oceanport Way to the west. The proposed redevelopment will consist of 75 residential units, 31,390 sf office space, 6,511 sf theater/study/art gallery, and 6,325 sf retail/flex space. Amenities for the apartments include a half mile walking trail along with a dog park.

Maser Consulting is now Colliers Engineering & Design

We offer the following preliminary comments for the Board's consideration:

A. Variances

1. The Applicant proposes to provide 33 parking spaces on the Building 282 (former Fire House) parcel. Based on the requirements of the Land Use Regulations, specifically N.J.A.C. 19:31c-3.7a table 8, the parking demand for Restaurant Facilities is one (1) space/three (3) seats. Based on the 150-seat capacity the parking demand is 50 spaces, a shortfall of 17 spaces.
2. The Applicant proposes to provide 74 parking spaces on the Building 206 (Commercial use) parcel. Based on the requirements of the Land Use Regulations, specifically N.J.A.C. 19:31c-3.7a table 8, the parking demand for office space is four (4) spaces/1,000 sf. Based on the 31,390 square footage the parking demand is 126 spaces, a shortfall of 52 spaces.
3. Building 206 is proposed to be office space use. The building area is 31,390 sf which exceeds 10,000 sf at which a screened loading area is required (19:31c-3.7(c)). No loading area is proposed.

The Fort Monmouth Land Use Law permits the granting of a bulk and area-type variance under either of the following situations (NJAC 19:31C-3.21a):

- By reason of the exceptional narrowness, shallowness, or shape of the property; exceptional topographic conditions or physical features uniquely affecting the property; or an extraordinary and exceptional situation uniquely affecting the property or structures lawfully existing thereon, strict application would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer; or
- A determination that the purposes of the Reuse Plan and this subchapter would be advanced by a deviation from the bulk and area requirements of this subchapter and the benefits of the deviation would substantially outweigh any detriment.

B. Design Waivers/Exceptions

1. All parking areas that exceed 25 vehicles and are required to provide for a minimum of 10% of the interior are to be landscaped. No landscape area is provided within any of the parking lots. FMERA in the MCR points out that the Application provides a parking excess of 128 spaces and they recommend the Applicant make a "concerted effort" to comply. It appears that the Applicant has not tried to address this requirement.

2. The Applicant proposes to provide a 24' width access aisle in the parking lots. NJAC 19:31C-3.10(c)3viii requires a minimum width of 25' for two-way traffic. The Applicant shall clarify for the Board where this condition is proposed.
3. The proposed lighting is not compliant with the requirements of NJAC 19:31C-3.10(j)(4), maximum lighting intensity of 0.1 foot-candles at the property lines. Lighting levels along Oceanport Avenue, Oceanport Way, and Hildreth Avenue reach a maximum level of 0.5 fc. The Applicant shall provide a justification for this exceedance.
4. N.J.A.C. 19:31-3.15(e)(1)(iv) requires all non-residential buildings to provide secure indoor bike racks. Indoor bicycle storage is not provided for the non-residential buildings. The Applicant proposes to provide nine (9) bike racks throughout the development. There does not appear to be a rack located adjacent to building 206. FMERA has indicated that they believe the Applicant has met with the intent of the requirement which is to reduce auto traffic within the Fort.

The Fort Monmouth Land Use Law permits the granting of a design waiver/exception from requirements listed in N.J.A.C. 19:31C-3.10 through 3.12 under either of the following situations (NJAC 19:31C-3.21d):

- The literal enforcement of one or more of the rules in this subchapter is impractical; or
- The literal enforcement of one or more of the rules in this subchapter will exact undue hardship because of peculiar conditions pertaining to the land in question.

B. General Comments

1. The 19.5-acre parcel that is the subject of this Application has not been subdivided off of original Lot 1 which started as a total of 211 acres. It is our understanding that this will not take place until the closing which will occur after Planning Board Approval is granted. Since the property boundary has not been legally established, an amended site plan application will be required if the boundary changes after the Planning Board hearing.
2. The property will be subdivided by FMERA into 4 parcels. The Applicant shall clarify if any of the parcels will be sold/under different ownership as cross access easement may be required.
3. The plans need to demonstrate locations of new pavement. The existing pavement is in poor condition and at a minimum should be milled and overlaid after receiving base repair. The deteriorated condition is beyond restoration by crack sealing and micro-surfacing. General Note #19 shall be removed.

4. The plans are unclear as to whether the security fencing along Oceanport Avenue is to be removed. A sidewalk is proposed along this frontage. Curbing should be provided for pedestrian safety.
5. The Applicant shall address trash and recyclables storage as the plans are devoid of any dumpster enclosures.

C. Grading Comments

1. The slope for the new parking lot for Building 206 and the expanded parking lot for the Museum are proposed at 0.4% or less. The grading of the parking lot north of Building 287 is proposed at 0.3%. These low slopes will create numerous birdbaths.
2. No grades are provided for the curbing and sidewalk along Oceanport Avenue.
3. No grading information is provided for the Green Trail.
4. The plans shall demonstrate the accessible path to each building and the proposed compliant slopes.

D. Landscaping

1. Additional shade trees should be provided along the proposed sidewalks and parking areas, with a minimum 6' offset from paved surfaces.
2. Due to the age of the existing plant material which is shown to remain we recommend an onsite meeting to walk the entire site and identify the existing plant material to remain, including foundation plantings, to determine if the material is appropriate and viable.
3. Foundation plantings should be provided for each structure on an enlarged plan. If current plantings are to remain, they should be noted, identified and incorporated within the proposed planting plan. These plants will be evaluated during the onsite.
4. We are concerned that the plantings along Hildreth Avenue are not substantial enough for residential Building 205. Knock Out Roses and Winter Gem Boxwood do not appear to be appropriate or substantial enough based on the material, current spacing and the installation size of 24".
5. We are concerned about the graphic illustration of the symbol size misrepresenting the actual density of the proposed plantings. Although landscape symbolism usually illustrates proposed plantings at 2/3 maturity, the current plan symbols are somewhat exaggerated, providing a false illusion of plant density.

6. Note No. 1 should be revised to instruct the landscape contractor that they must match quantities of plant materials illustrated on the planting plan, and not the plant schedule.
7. Note No. 4 should be revised to state "No plant substitutions may occur without written permission prior to installation in the field."
8. Note No. 9 should include the mulch depth of 4" within the specification.
9. Note No. 11 should be modified to state that "only aged organic matter is to be used as backfill to avoid root burn." In regard to fertilizer for trees, trees should receive 3 oz. of fertilizer, not 3 lbs. The type of fertilizer should be stated; we suggest 14-14-14.
10. Note No. 12 should be revised to state the type of guy. To match details, provide 1/2" plastic chain to avoid bark damage.
11. Note No. 15 should be revised to comply with instructions as detailed in Note No. 1.
12. Note No. 18 should be added to state "Trees and shrubs are to be planted at nursery grade with no soil on top of the root ball.

E. Lighting

1. The site lighting for the commercial uses should be turned off one (1) hour after the buildings close. Some light could be left on for security purposes or fixed with motion sensors. Appropriate notes shall be provided on the plans to clarify.
2. Light fixtures should be placed in line with the parking lot striping to avoid vehicular damage.
3. Light fixture footing details should be provided for light fixtures located within the parking areas and grassed islands. The light poles shall be located a minimum of 3' behind the curb or the foundation shall be extended 2.5' above the top of curb (3' above pavement) to protect it from vehicular impact.
4. In accordance with lighting standards set forth by the North American Illumination Engineering Society, all parking lot lighting should be above 0.5 foot-candles. There are several locations within the site plan where levels of illumination drop below 0.3 foot-candles. Please review the existing office space parking lot, adjacent to the west side of Building 206.
5. The Applicant should clarify if low level lighting will be provided for the Green Trail.

F. Traffic and Circulation

1. The Applicant shall provide testimony addressing the anticipated trip generations, peak hours of operation for the existing/proposed uses and any negative impacts on surrounding roadway system.
2. The Applicant shall provide a detail analysis of the parking requirement per the Ordinance.
3. The Applicant has a parking shortfall for Buildings 282 and 206. The Applicant shall demonstrate that the shared parking shall be no greater than 400 feet walking distance away from the entrance to the proposed building. The method to delineate the shared spaces shall be clarified. A "Shared Parking" agreement has not been submitted for review and approval. Any such agreement shall be filed at the County prior to issuance of a Certificate of Occupancy on the two affected parcels.
4. The parking for the apartments is in excess of 50% more than the requirement. It appears that additional spaces are being squeezed in throughout the lot. A design waiver is required for the lack of parking lot landscaping. The Board should discuss the possibility of eliminating some of the new parking spaces and the provision of landscaping/green space.
5. The project has only one point of access off Hildreth Avenue. From a traffic circulation and emergency access point of view, our office recommends the addition of a second access point from Oceanport Avenue opposite Riverside Avenue, subject to the approval by Monmouth County. The Applicant should clarify if there have been any discussions with the County as to what they will require for improvements on the County roads.
6. A Vehicle Access Plan shall be submitted that demonstrates emergency and garage vehicles can access and traverse the properties. The Fire Truck template has been provided by the Fire Marshal.
7. The two most eastern parallel parking spaces in front of the theater should be eliminated as they are too close to the intersection of Gosselin Avenue and the entrance road.
8. If a childcare use is proposed for Building 206 then a drop off location is required and shall be shown on the plans.
9. Sight triangles shall be provided for the two driveways.

G. Pedestrian Circulation

1. A majority of the existing sidewalk that is proposed to remain is in poor condition. Some of the sidewalk that is abutting the curbing has settled creating a tripping hazard. It is anticipated that the construction activity may cause further deterioration. Our office recommends that as a condition of approval, the Applicant and the Borough Engineer walk the site to determine what sidewalk needs to be replaced both on-site and along the frontage of the tract. All handicap curb ramps are to be made compliant, on-site and along the tract frontage.
2. Existing and proposed sidewalks lack dimension on the layout plan. Sidewalks that abut perpendicular parking spaces shall be a minimum 6' wide.
3. ADA requires 5' by 5' passing areas be provide at spacing no greater than 200' for sidewalks in the right of way. The passing areas need to be added to the plans.
3. The handicap parking spaces for Buildings 205 & 206 should be the closest ones to the building and access ramps. No HC parking spaces are provided for Building 282.
4. Handicap curb ramps shall be provided at all crosswalks. There are a few crosswalks that lead to islands with no sidewalk.
5. Additional benches should be provided along the green trail due to its length and adjacent to the dog park.
6. Will the current chain link fence remain around the wetlands and path system? If so, then the plan should illustrate gates at each fence and path crossing. These gates should be sized to accommodate maintenance/emergency vehicles.

H. Stormwater Management

1. The Applicant shall provide maps to demonstrate vehicular and non-vehicular impervious coverage under existing and proposed conditions to verify that the project is not classified as a major project under the Stormwater regulations.
2. The Applicant proposes to utilize the existing Stormwater system. Due to the age of the system, it should be cleaned and televised. A conditions assessment report of the pipe and structures shall be submitted with recommendations for repairs as needed. A copy of the video shall be included with the report.

3. Computations shall be submitted that the system has capacity for the 25-year event. In the event that the system does not have the capacity, drainage system improvements will be required.
4. Pipe sizes, slopes and material type shall be provided on the drainage plans.
5. The project consists of four (4) parcels that will be under common ownership. The Applicant shall clarify what measures will be done should a single parcel be sold off and the need for easements/maintenance agreements.
6. The inlets are required to comply with the NJDEP Stormwater regulations pertaining to curb heads and grate types.
7. The O&M Manual for the stormwater system shall be updated with the new Block and Lot numbers. In accordance with the Borough's Stormwater Control Ordinance the owner/operator of the Stormwater Facility is required to submit annual inspection reports and maintenance logs to the Borough Clerk by March 1st for the previous year. The Manual shall clearly note this requirement. The approved Manual will have to be filed at the County so that it can be discovered by future owners.

I. Miscellaneous

1. The Applicant shall clarify who will be responsible for the care and maintenance of the dog park and green trail. Will there be a dog bag dispenser and trash receptacle provided?
2. On Sheet 12 of 19, there is a hatched symbol which is unlabeled, which is also illustrated east of the dog park. What is this item? (Each item should be keyed into the detail it represents).
3. On Sheet 10 of 19 there is a roundabout in the green trail with walkways to the pergolas. The Applicant shall clarify if a wall is proposed within the roundabout.
4. The Application has not included the location or details of any signage. Signage will have to comply with the Ordinance or be the subject of a future application.
5. The Applicant shall be required to provide an electronic version (AutoCAD format) of the boundary survey and proposed lot boundaries.
6. A Tax Map Revision Fee of \$340 shall be paid to the Borough should the Application be approved (Ordinance 204.10).
7. Applicant shall clarify if the fencing along Oceanport Avenue is to be removed.

8. The street addresses shall be approved by the appropriate Borough Official.
9. The crosswalk striping detail shall be revised to be white and the 4" side stripes eliminated.
10. The following details shall be provided:
 - a) Building handicap ramps
 - b) Light pole, including height
 - c) Additional Handicap Ramp details are needed as the detail provided is not for all the types shown on the plan
 - d) Walking Trail
 - e) Revise nomenclature on sanitary sewer casting as required by TRWRA
 - f) Bicycle rack
 - g) Benches
 - h) Trash receptacles
 - i) Pavers
 - j) Dog park fence, additional detailed information on the materials, color, etc. are needed and a gate detail shall be provided.

J. Additional Agency Approvals

1. This Application is subject, but not limited to, the following outside agency approvals or letter of no jurisdiction:
 - a) NJDEP: CAFRA, FHA, LOI
 - b) Monmouth County Planning Board
 - c) Oceanport Fire Marshal
 - d) Two River Water Reclamation Authority
 - e) New Jersey American Water
 - f) Freehold Soil Conservation District
 - g) State Historic Preservation Office
 - h) NJ Historic Trust

Project No. OPP-0301
October 22, 2021
Page 10 | 10



Should you have any questions regarding this matter, please do not hesitate to contact me directly.

Sincerely,

Colliers Engineering & Design

A handwritten signature in blue ink, appearing to read "W.H.R. White, III".

William H.R. White, III, PE, PP, CME, CFM, CPWM
Oceanport Planning Board Engineer and Planner

WHW/dmm

cc: Kevin Kennedy, Esq. (via email)
E. Carlton Kromer, Esq. (via email)
Mathew Wilder, PE (via email)

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To: Oceanport Borough Planning Board

From: Kendra Lelie, PP, AICP, LLA

Re: **Barkers Circle Partnership LLC**
Preliminary and Final Site Plan and Subdivision Application
Application No. PB2021-16
Planners Review

Date: October 25, 2021

I have been requested by the Planning Board to provide a planning review of the above referenced application which involves the development of 75 residential units, 31,390 sf office space, 6,511 sf theater/study/art gallery, and 6,325 sf retail/flex space on an existing 19.5-acre parcel located in the Fort Monmouth Horseneck Center District as well the Historic District. This report is limited to planning comments related to affordable housing only.

In preparation of the planning comments, the following was reviewed:

1. Plan entitled "Preliminary & Final Major Site & Subdivision Plan," prepared by Morgan Engineering & Surveying, last revised July 20, 2021, consisting of 19 sheets.
2. Architectural Plans entitled "Fort Monmouth Barker Circle," prepared by Monmouth Ocean Design Experts, LLC, last revised July 19, 2021, consisting of 27 sheets.
3. Architectural Renderings, consisting of 7 sheets.
4. Mandatory Conceptual Review, prepared by Upendra Sapkota, PP, AICP, LEED AP, Senior Officer, Planning and Development and Bruce Steadman, Executive Director, FMERA, dated June 25, 2021.

1.0 Project Description

1.1 The applicant is proposing to renovate and adaptively reuse all seven buildings located on the subject parcel. A total of seventy-five (75) residential units will be developed as a part of the proposed development (as detailed below) of which fifteen (15) residential units will be affordable housing units:

- Buildings 205 & 207, each will house twenty-one (21) residential units;
- Building 208 will be reused for eighteen (18) residential units;
- Building 287 will house fifteen (15) residential units;

Building 206 will be renovated into 31,390 square feet of office space and Building 275 will be renovated to house a theater with stage, studios and art gallery. Finally, Building 282 is proposed to be reused for



uses related to retail and flex space.

1.2 The parcel is proposed to be developed in accordance with the zoning approved under Reuse Plan and the overlay zoning approved in Amendment #6 and Amendment #16, which permitted the following uses:

- Buildings 206 and 208 for residential and/or office/research & development uses;
- Building 282, the former Fire House, for retail or office/research & development uses;
- Relocate 26 residential units from the Oceanport Municipal Complex parcel to Buildings 206 and 208;
- Reuse of Building 206 for business lofts with childcare centers as an accessory use;
- Building 282 for craft production facilities and art and cultural retail uses; and
- Reuse of Building 275 for art and cultural retail uses with office uses as an accessory use.

2.0 Affordable Housing.

The Reuse and Redevelopment Plan provides for 720 residential units within Oceanport. Application of the 20% affordable housing set-aside required in accordance with the Reuse and Redevelopment Plan would yield a minimum of 144 low- and moderate-income housing units. The Barkers Circle property is included in the January 2020 Borough Housing Element and Fair Share Plan (2020 HEFSP) to provide fifteen (15) affordable housing units. The proposed development complies with the 2020 HEFSP and the April 2020 Judgment of Repose and Compliance (JOR) from Superior Court in terms of the minimum number of affordable housing units and the bedroom distribution. The JOR specifically approved the bedroom distribution to include all two-bedroom units.

Where affordable housing requirements are not referenced herein, all affordable units shall be subject to the provisions of the Borough's Affordable Housing Ordinance.

2.1 Affordable Housing Set-Aside

The development shall provide an affordable housing set-aside in accordance with the 2020 HEFSP and the JOR, which requires that 20% of the units be provided for low and moderate income households. The applicant is proposing 75 residential units of which fifteen (15) are required to be provided for low and moderate income households. ***While the applicant has indicated 15 affordable housing units are indicated as being provided on the Site Plan, the architectural plans shall identify the locations of the affordable housing units.***

2.2 Income Distribution for Affordable Units

In accordance with the 2020 HEFSP and the April 2020 JOR, the applicant shall provide a minimum of 13% of the units for very-low income households and 37% of the units for low-income households. The remaining households may be identified for moderate-income households. ***The architectural plans shall***



be updated to confirm compliance with these requirements.

2.3 Affirmative Marketing of Affordable Units

All affordable housing units must be affirmatively marketed to the housing region in accordance with the Borough's adopted Affirmative Marketing Plan. ***The applicant shall provide testimony that identifies how this requirement will be met.***

2.4 Affordability Controls

The Council on Affordable Housing (COAH) regulations at NJAC 5:93-9.2(e) and Uniform Housing Affordability Controls (UHAC) at NJAC 5:80-26.11(a), state that newly constructed affordable units shall remain affordable to low- and moderate-income households for a period of at least 30 years until terminated by the municipality. ***The applicant shall provide testimony confirming conformance with this requirement.***

2.5 Accessibility Requirements.

The applicant should provide testimony regarding the compliance of plans with COAH's rules pertaining to accessibility/adaptability, including, but not limited to, NJAC 5:97-3.14.

2.6 Veterans' Preference.

Through a developer's agreement, a developer may agree to permit up to fifty (50%) percent of all affordable rental units to prefer veterans per NJSA 52:27D-311. ***The applicant should indicate what percent, if any, of the affordable units will prefer veterans.***

2.7 Affordable Housing Agreement. *The applicant will need to enter into an affordable housing agreement with the Borough as a condition of any approval.*

Should you have any questions regarding this review memorandum, I will be available at the Planning Board public hearing for this application.

C. *Jeanne Smith, Borough Clerk & Land Use Board Secretary*
Kevin Kennedy, Esquire, Board Attorney
William White, PE, Board Engineer
E. Carlton Kromer, Esq

November 8th, 2021

(Via NJLS Service)

Jeanne Smith, Planning Board Secretary
Borough of Oceanport Planning Board
910 Oceanport Way
Oceanport, NJ 07757

**Re: *Barkers Circle Partnership LLC
Proposed New Block 110.20, Lot 1 - 2000 Avenue of Memories
Proposed New Block 110.21, Lot 1 - 2200 Avenue of Memories Proposed New Block 110.22, Lot 1 -
100 Barker's Circle Proposed New Block 110.23, Lot 1 - 200 - 500 Barker's Circle Application No.
PB2021-16
Borough of Oceanport, Monmouth County, New Jersey
Colliers Engineering & Design Project No. OPP-0301
Our File No: E19-00398***

Dear Ms. Smith:

The below letter has been prepared to address the comments of William H.R. White, III, PE, PP, CME, CFM, CPWM- Colliers' review letter dated October 22, 2021. Revised plans will be submitted at a later date; however, this letter has been prepared to outline certain plan changes or provide additional information regarding the comments contained within Mr. White's letter.

General Comments

1. The 19.5-acre parcel that is the subject of this Application has not been subdivided off of original Lot 1 which started as a total of 211 acres. It is our understanding that this will not take place until the closing which will occur after Planning Board Approval is granted. Since the property boundary has not been legally established, an amended site plan application will be required if the boundary changes after the Planning Board hearing.
Response: The property has been subdivided. Copies of the recorded deeds will be provided as a condition of approval.
2. The property will be subdivided by FMERA into 4 parcels. The Applicant shall clarify if any of the parcels will be sold/under different ownership as cross access easement may be required.
Response: It is possible over time that the individual parcels may be sold. Parking and access easements will be executed, as necessary. Copies of these documents will be provided as a condition of approval.
3. The plans need to demonstrate locations of new pavement. The existing pavement is in poor condition and at a minimum should be milled and overlaid after receiving base repair. The deteriorated condition is beyond restoration by crack sealing and micro-surfacing. General Note #19 shall be removed.



Response: The plans will be updated as a condition of approval to denote those areas which are to have full depth pavement restoration. Note #19 will be modified in accordance with this comment.

4. The plans are unclear as to whether the security fencing along Oceanport Avenue is to be removed. A sidewalk is proposed along this frontage. Curbing should be provided for pedestrian safety.

Response: The security fencing along Oceanport Avenue is to be removed. The plan will be updated to denote this. Additionally, the plans will be updated to add curbing along Oceanport Avenue.

5. The Applicant shall address trash and recyclables storage as the plans are devoid of any dumpster enclosures.

Response: The plans will be updated to depict the existing trash enclosures to be upgraded as well as the location for the new, proposed enclosures.

Grading Comments

1. The slope for the new parking lot for Building 206 and the expanded parking lot for the Museum are proposed at 0.4% or less. The grading of the parking lot north of Building 287 is proposed at 0.3%. These low slopes will create numerous birdbaths.

Response: To accommodate an increase in the asphalt slope, the reveal of the proposed concrete curb will vary. The proposed curb will have a reveal of not less than 3" and not greater than 9". The locations of the variable curb reveal will be clearly depicted on the revised plan.

2. No grades are provided for the curbing and sidewalk along Oceanport Avenue.

Response: Grade elevations will be provided for the proposed sidewalk on the revised plans.

3. No grading information is provided for the Green Trail.

Response: The intent for the green trail is to be field located mimicking the existing grades in the area. The proposed green trail is located within the buffer of freshwater wetlands and therefore, the intent is to minimize grading operations to also minimize clearing of existing vegetation.

4. The plans shall demonstrate the accessible path to each building and the proposed compliant slopes.

Response: A separate plan will be added to the set addressing handicap accessibility into each building. Each building either has an existing, compliant ramp and a proposed, compliant ramp. The detail sheet created will outline the dimensions of ramp/landings as well as the running and cross slopes.

Landscaping Comments

1. Additional shade trees should be provided along the proposed sidewalks and parking areas, with a minimum 6' offset from paved surfaces.

Response: Additional shade trees will be provided throughout the development. This will be depicted on a revised plan.



2. Due to the age of the existing plant material which is shown to remain we recommend an onsite meeting to walk the entire site and identify the existing plant material to remain, including foundation plantings, to determine if the material is appropriate and viable.
Response: The applicant agrees to this as a condition of approval.
3. Foundation plantings should be provided for each structure on an enlarged plan. If current plantings are to remain, they should be noted, identified and incorporated within the proposed planting plan. These plants will be evaluated during the onsite.
Response: The plans will be updated to provide additional foundation plantings. Existing foundation plantings to remain will be denoted on the Landscaping Plans.
4. We are concerned that the plantings along Hildreth Avenue are not substantial enough for residential Building 205. Knock Out Roses and Winter Gem Boxwood do not appear to be appropriate or substantial enough based on the material, current spacing and the installation size of 24".
Response: Building 205 has on the northwest side of the building, 3 levels of covered porches which overlook the open space east of Russel Hall. Maple trees have been provided approximately 40 feet on-center along the entirety of Hildreth Avenue. The intent was to accentuate the area while not entirely shielding the rear of Building 205 and its views from the multi-story balconies.
5. We are concerned about the graphic illustration of the symbol size misrepresenting the actual density of the proposed plantings. Although landscape symbolism usually illustrates proposed plantings at 2/3 maturity, the current plan symbols are somewhat exaggerated, providing a false illusion of plant density.
Response: The plans will be updated to reduce the size of the planting symbols. This will be reflected on a revised plan.
6. Note No. 1 should be revised to instruct the landscape contractor that they must match quantities of plant materials illustrated on the planting plan, and not the plant schedule.
Response: The requested note will be added to the plan.
7. Note No. 4 should be revised to state "No plant substitutions may occur without written permission prior to installation in the field."
Response: The requested note will be revised as requested.
8. Note No. 9 should include the mulch depth of 4" within the specification.
Response: The note will be revised as requested.
9. Note No. 11 should be modified to state that "only aged organic matter is to be used as backfill to avoid root burn." In regard to fertilizer for trees, trees should receive 3 oz. of fertilizer, not 3 lbs. The type of fertilizer should be stated; we suggest 14-14-14.
Response: The note will be revised as requested.
10. Note No. 12 should be revised to state the type of guy. To match details, provide 1/2" plastic chain to avoid bark damage.
Response: The note will be revised as requested.
11. Note No. 15 should be revised to comply with instructions as detailed in Note No. 1.
Response: The note will be revised as requested.

12. Note No. 18 should be added to state “Trees and shrubs are to be planted at nursery grade with no soil on top of the root ball.

Response: The note will be revised as requested.

Lighting Comments

1. The site lighting for the commercial uses should be turned off one (1) hour after the buildings close. Some light could be left on for security purposes or fixed with motion sensors. Appropriate notes shall be provided on the plans to clarify.
Response: Notes will be added to the plans indicating this.
2. Light fixtures should be placed in line with the parking lot striping to avoid vehicular damage.
Response: The lighting design will be adjusted to locate proposed light poles at the intersection of parking spaces.
3. Light fixture footing details should be provided for light fixtures located within the parking areas and grassed islands. The light poles shall be located a minimum of 3’ behind the curb or the foundation shall be extended 2.5’ above the top of curb (3’ above pavement) to protect it from vehicular impact.
Response: The location of proposed light poles will be adjusted in accordance with this comment.
4. In accordance with lighting standards set forth by the North American Illumination Engineering Society, all parking lot lighting should be above 0.5 foot-candles. There are several locations within the site plan where levels of illumination drop below 0.3 foot-candles. Please review the existing office space parking lot, adjacent to the west side of Building 206.
Response: The lighting design will be adjusted to ensure a minimum of 0.5-foot candles within paved parking areas.
5. The Applicant should clarify if low level lighting will be provided for the Green Trail.
Response: It is the applicant’s intent to provide some low-level lighting for the proposed green trail. The applicant is working with the NJDEP as it relates to the Coastal Areas Facility Review Act (CAFRA) which will dictate the design of the green trail. Upon finalization of the green trail design, a revised plan will be submitted illustrating the location of the proposed low-level lighting around the proposed green trail.

Traffic and Circulation

1. The Applicant shall provide testimony addressing the anticipated trip generations, peak hours of operation for the existing/proposed uses and any negative impacts on surrounding roadway system.
Response: Testimony will be providing by the applicant’s traffic engineer at the proposed hearing.
2. The Applicant shall provide a detail analysis of the parking requirement per the Ordinance.
Response: Testimony will be providing by the applicant’s traffic engineer at the proposed hearing.



3. The Applicant has a parking shortfall for Buildings 282 and 206. The Applicant shall demonstrate that the shared parking shall be no greater than 400 feet walking distance away from the entrance to the proposed building. The method to delineate the shared spaces shall be clarified. A "Shared Parking" agreement has not been submitted for review and approval. Any such agreement shall be filed at the County prior to issuance of a Certificate of Occupancy on the two affected parcels.
Response: Testimony will be provided by the applicant's traffic engineer at the proposed hearing. Furthermore, exhibits will be presented illustrating those parking spaces within 400 feet of the proposed building where shared parking is proposed.
4. The parking for the apartments is in excess of 50% more than the requirement. It appears that additional spaces are being squeezed in throughout the lot. A design waiver is required for the lack of parking lot landscaping. The Board should discuss the possibility of eliminating some of the new parking spaces and the provision of landscaping/green space.
Response: Testimony will be provided relative to the proposed residential parking. Considering the location of the subject property as well as the existing drive aisle widths, additional parking has been added in an effort to minimize the potential of on-street parking. Furthermore, as part of the CAFRA approval, public access will be required, and this requirement will include off-street parking.
5. The project has only one point of access off Hildreth Avenue. From a traffic circulation and emergency access point of view, our office recommends the addition of a second access point from Oceanport Avenue opposite Riverside Avenue, subject to the approval by Monmouth County. The Applicant should clarify if there have been any discussions with the County as to what they will require for improvements on the County roads.
Response: Testimony will be provided by the applicant's traffic engineer at the proposed hearing.
6. A Vehicle Access Plan shall be submitted that demonstrates emergency and garage vehicles can access and traverse the properties. The Fire Truck template has been provided by the Fire Marshal.
Response: The plans will be revised to include a truck circulation exhibit for the emergency vehicles as well as a trash truck demonstrating an ability to circumnavigate the development.
7. The two most eastern parallel parking spaces in front of the theater should be eliminated as they are too close to the intersection of Gosselin Avenue and the entrance road.
Response: The 2 requested parking spaces will be removed from the plan.
8. If a childcare use is proposed for Building 206 then a drop off location is required and shall be shown on the plans.
Response: No childcare use is proposed at this time for Building 206.
9. Sight triangles shall be provided for the two driveways.
Response: Sight triangles will be provided at the proposed driveways.

Pedestrian Circulation

1. A majority of the existing sidewalk that is proposed to remain is in poor condition. Some of the sidewalk that is abutting the curbing has settled creating a tripping hazard. It is anticipated that the



construction activity may cause further deterioration. Our office recommends that as a condition of approval, the Applicant and the Borough Engineer walk the site to determine what sidewalk needs to be replaced both on-site and along the frontage of the tract. All handicap curb ramps are to be made compliant, on-site and along the tract frontage.

Response: No exception is taken to this request.

2. Existing and proposed sidewalks lack dimension on the layout plan. Sidewalks that abut perpendicular parking spaces shall be a minimum 6' wide.

Response: Additional dimensions will be added for the existing/proposed sidewalk. In locations where 6-foot-wide sidewalks cannot be provided, concrete wheel stops will be provided to ensure the overhang of vehicles does not impact the operable width of the sidewalk.

3. ADA requires 5' by 5' passing areas be provide at spacing no greater than 200' for sidewalks in the right of way. The passing areas need to be added to the plans.

Response: Passing areas will be provided to the plan.

3. The handicap parking spaces for Buildings 205 & 206 should be the closest ones to the building and access ramps. No HC parking spaces are provided for Building 282.

Response: A separate plan will be added to the plan set summarizing the handicap facilities throughout the development. This will include the accessible routes into the building as well as the adjacent accessible parking facilities.

4. Handicap curb ramps shall be provided at all crosswalks. There are a few crosswalks that lead to islands with no sidewalk.

Response: A separate plan will be added to the plan set summarizing the handicap facilities throughout the development. This will include the accessible routes into the building as well as the adjacent accessible parking facilities.

5. Additional benches should be provided along the green trail due to its length and adjacent to the dog park.

Response: Additional benches will be added to the plan. This will be coordinated with the NJDEP as part of the CAFRA review as well.

6. Will the current chain link fence remain around the wetlands and path system? If so, then the plan should illustrate gates at each fence and path crossing. These gates should be sized to accommodate maintenance/emergency vehicles.

Response: The existing fencing is to be removed and a note will be added to reflect this.

Stormwater Management

1. The Applicant shall provide maps to demonstrate vehicular and non-vehicular impervious coverage under existing and proposed conditions to verify that the project is not classified as a major project under the Stormwater regulations.

Response: Additional maps will be provided as requested. It should be noted that on the Cover Sheet, under the Zoning Requirements, there is a breakdown of the existing and proposed impervious surfaces. This demonstrates that there is not ¼ acre of new



impervious surfaces proposed. This table will be expanded upon to identify the different impervious land use covers.

2. The Applicant proposes to utilize the existing Stormwater system. Due to the age of the system, it should be cleaned and televised. A conditions assessment report of the pipe and structures shall be submitted with recommendations for repairs as needed. A copy of the video shall be included with the report.

Response: No exception is taken to this request.

3. Computations shall be submitted that the system has capacity for the 25-year event. In the event that the system does not have the capacity, drainage system improvements will be required.

Response: This analysis will be provided and the system upgraded, if needed.

4. Pipe sizes, slopes and material type shall be provided on the drainage plans.

Response: This information will be added to the plans.

5. The project consists of four (4) parcels that will be under common ownership. The Applicant shall clarify what measures will be done should a single parcel be sold off and the need for easements/maintenance agreements.

Response: Testimony will be provided at the public hearing relative to ownership.

6. The inlets are required to comply with the NJDEP Stormwater regulations pertaining to curb heads and grate types.

Response: Inlet castings will be upgraded, as necessary.

7. The O&M Manual for the stormwater system shall be updated with the new Block and Lot numbers. In accordance with the Borough's Stormwater Control Ordinance the owner/operator of the Stormwater Facility is required to submit annual inspection reports and maintenance logs to the Borough Clerk by March 1st for the previous year. The Manual shall clearly note this requirement. The approved Manual will have to be filed at the County so that it can be discovered by future owners.

Response: The Operations and Maintenance Manual will be updated in accordance with this comment.

Miscellaneous

1. The Applicant shall clarify who will be responsible for the care and maintenance of the dog park and green trail. Will there be a dog bag dispenser and trash receptacle provided?

Response: The dog park and green trail will be maintained by the property owner. There will be adequate fencing as well as trash receptacles at appropriate locations. Dog bag dispensers will also be provided.

2. On Sheet 12 of 19, there is a hatched symbol which is unlabeled, which is also illustrated east of the dog park. What is this item? (Each item should be keyed into the detail it represents).

Response: This plan sheet will be reviewed, and any hatch patterns shown will be provided a callout.



3. On Sheet 10 of 19 there is a roundabout in the green trail with walkways to the pergolas. The Applicant shall clarify if a wall is proposed within the roundabout.
Response: No retaining walls are proposed within the green trail. The roundabout within the green trail is intended to house a water feature such as a small fountain. The applicant is discussing this with the NJDEP as part of the CAFRA approval to ensure this would be compliant with their regulations.
4. The Application has not included the location or details of any signage. Signage will have to comply with the Ordinance, or be the subject of a future application.
Response: It is the intent of the applicant to have all signage comply with the Borough ordinance at this time.
5. The Applicant shall be required to provide an electronic version (AutoCAD format) of the boundary survey and proposed lot boundaries.
Response: No exception is taken to this request.
6. A Tax Map Revision Fee of \$340 shall be paid to the Borough should the Application be approved (Ordinance 204.10).
Response: Statement of fact.
7. Applicant shall clarify if the fencing along Oceanport Avenue is to be removed.
Response: The existing fencing along Oceanport Avenue is to be removed. The plans will be updated to denote this.
8. The street addresses shall be approved by the appropriate Borough Official.
Response: Statement of fact.
9. The crosswalk striping detail shall be revised to be white and the 4" side stripes eliminated.
Response: The striping detail will be revised as requested.
10. The following details shall be provided:
 - a) Building handicap ramps
 - b) Light pole, including height
 - c) Additional Handicap Ramp details are needed as the detail provided is not for all the types shown on the plan
 - d) Walking Trail
 - e) Revise nomenclature on sanitary sewer casting as required by TRWRA
 - f) Bicycle rack
 - g) Benches
 - h) Trash receptacles
 - i) Pavers
 - j) Dog Park fence, additional detailed information on the materials, color, etc. are needed and a gate detail shall be provided.

Response: Details will be provided for all of the above items on a revised plan.

If you have any questions or require any additional materials, please do not hesitate to contact this office.

· PO BOX 5232, TOMS RIVER, NEW JERSEY 08754 (TEL.) 732.270.9690 (FAX) 732.270.9691 ·

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Respectfully submitted,

Mathew R. Wilder, P.E., P.P., CFM, CME

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