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