

**OCEANPORT PLANNING BOARD
MINUTES
October 27, 2015**

Vice Chairman Whitson called the meeting to order at 7:30 p.m. and gave the Statement of Compliance with the Open Public Meetings Act: "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 29, 2015, and by the posting of same on the municipal bulletin board and Borough Web Site."

Vice Chairman Whitson led the flag salute.

MEMBERS PRESENT: Mayor Mahon, Councilman Gallo, Mr. Kleiberg, Mr. Kahle, Mr. Fichter, Mr. Whitson

MEMBERS ABSENT: Mr. Sullivan, Mr. Savarese, Mr. Widdis

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

BOARD BUSINESS:

1. Minutes of the meeting of August 11, 2015 were approved on a motion from Mr. Kleiberg and a second from Mr. Kahle and approved by the eligible Board members.
2. Minutes of the Workshop meeting of October 13, 2015 were approved on a motion from Mr. Kleiberg and a second from Mr. Kahle and approved by the eligible Board members.
3. Minutes of the meeting of October 13, 2015 were approved on a motion from Mr. Kahle and a second from Mr. Kleiberg and approved by the eligible Board members with Mayor Mahon and Councilman Gallo abstaining.
4. Recommendations for Proposed Fort Monmouth Reuse Plan #4 – Ms. Smith advised the Board that the Borough had received from FMERA Plan Amendment #4 which had been distributed and would be scheduled for the November 10TH workshop meeting.

Vice Chairman Whitson read correspondence received from Mayor Mahon advising of his appointment of Joseph Foster to fill the vacancy of the Class II member left vacant by William Johnson with a term that would expire December 31, 2016.

Ms. Smith advised that another letter was received from Mayor Mahon advising of his appointment of Michael Savarese to fill the vacant Class IV member left vacant by David Gruskos with a term that would expire December 31, 2017.

OLD BUSINESS:

5. PB2015-13 DeMarco Development
91 Monmouth Road
Block 136, Lot 51
Request for Minor Subdivision with Variances

CARRIED from October 13, 2015

Mr. Shaheen, Attorney for the Applicant, appeared and stated his engineer/surveyor had not yet arrived and would the Board consider moving to the next item on the Agenda and as there were no objections Vice Chairman Whitson called for Applicant Andrea Morris to present next.

NEW BUSINESS:

6. PB2015-18 Morris, Andrea
35 Manitto Place
Block 65, Lot 19.01
Request for Bulk Variance

The following persons were sworn in for the record: Andrea Morris, Applicant and Owner, Greg Morris, Co-Owner and William White, Board Engineer and Planner.

Mr. DeNoia provided some guidance as to what the Applicant should demonstrate to the Board concerning positive and negative impacts of the proposed work.

Andrea Morris stated that they wanted to put a small deck on the back of house in place of a large concrete patio with the deck being smaller than the patio and the deck is needed to get into the back house as the house had to be elevated due to Superstorm Sandy. Mr. Morris testified that the patio was demolished in order to raise the house.

Vice Chairman Whitson asked for questions from the Board.

Mr. Kahle asked so they're asking for one variance for rear yard setback and was told yes.

Councilman Gallo asked if there were other steps up to the patio and was told there were no steps right now but when they put up the deck there would be 1 set of steps unlike the plan which showed 2 sets of steps.

Mayor Mahon asked the proposed deck was 4' further away from the rear lot line and was told yes.

Mr. White stated his only concern was that an as-built survey be submitted should it be approved. Mr. White stated the architect plan shows 2 sets of stairs and asked but only 1 set to be built and was told yes.

Vice Chairman Whitson asked if there was any additional lighting that would affect the neighbors. Mrs. Morris answered there was already lighting existing. Mr. Morris stated that the lights weren't spot lights though.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for questions or comments. As no one from the public wished to be heard Vice Chairman Whitson closed that portion of the hearing.

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

AYES:	Mayor Mahon, Councilman Gallo, Mr. Kleiberg, Mr. Kahle, Mr. Fichter, Mr. Whitson
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Sullivan, Mr. Savarese, Mr. Widdis

Ms. Smith stated the motion carried.

7. PB2015-17 Galway Builders
157 Comanche Drive
Block 41, Lot 6
Request for Bulk Variance(s)

Doug Pryor, Attorney for the Applicant, appeared and gave a brief description of the application being presented for removal of existing concrete house and garage and construction of a new home that would comply with all the requirements for the zone with relief being sought for a pre-existing lot width of 100' wide when 125' required with both adjacent properties being fully developed and no ability for

Applicant to make the lot comply. Mr. Pryor continued that the application also sought relief for height of 37' where 35' allowed.

Darren Davis, Managing Director of Galway Builders, the Applicant, was sworn in for the record. Mr. Davis described the nature of the business building homes and named several locations in town that had already been completed.

Mr. Davis testified as to the current conditions of the property with a detached 2-bay garage in the back with a slab floor, masonry and the house was a single family ranch which was masonry block making it unable to be lifted due to the masonry block and shape of the house and the zone's requirement for a first floor elevation of 12.4' which the current house did not comply.

Mr. Pryor referring to Architectural Plan page A-8 prepared by Anthony Condouris, Architect asked Mr. Davis to describe the proposed work. Mr. Davis described the proposed house to be stick built with a 2-bay garage, 2-story with walkup attic and a deck on the back due to the elevation of the house, explained the elevation of the road at about 7' and the first floor required to be at 12.4' leaving less than 30' to build the house which would meet the requirements of the zone if not for the 12.4' requirement, 2 floors with a walk up attic for storage as no basement permitted, the DEP limitations on same, described the proposed driveway offset to one side with a turning radius to come out of the garage, would be more aesthetically pleasing from the street as shown on plan prepared by East Point Engineering presented to the Board with application. Mr. Davis further testified that the new house was proposed moved forward to be in line with the existing houses providing for a back yard and a more upscale look.

Mr. White asked if the Applicant was aware of ordinance section 390-14(b) which requires the average front and rear yard setback and asked if their surveyor had provided any information for that. Mr. Davis answered, no he was not. Mr. Pryor asked if it was commented on in the letter to which Mr. White brought to his attention in the review letter. There was discussion on the requirement and the intent of the requirement to keep houses in line. Mr. White also commented that the driveway was not typical but was artistic choice and there was no engineering standard but looked like a vehicle could maneuver.

Vice Chairman Whitson asked if the walk-up attic would affect the 3rd floor. Mr. White commented that it was 2 ½ story as opposed to 3 story. There was discussion on whether the plan met the ½ story requirements, the location of the mechanicals in that area.

Mayor Mahon asked about the walk-up attic and where were the stairs to it shown on the plan. Mr. Davis referred to sheet A-6 which Mayor Mahon stated he didn't have.

Councilman Gallo asked if there was a crawl space and was told yes, 5', with elevation of crawl having to be kept at the same grade as outside or slightly above it.

Mr. Kahle asked that they make sure the driveway with the k-turn maintains the 5' side yard setback.

Mr. Kleiberg pointed out on the sheet that shows the elevations that the Applicant would need 7' to have a habitable attic which they didn't have so it couldn't be a habitable attic and if they wanted to finish it they'd have to go to the building department to raise the house...Mr. Davis stated that they have it set up only for storage and if someone chose to finish the attic or not was irrelevant. Mr. Kleiberg added that as it shows now they only have 4'9".

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for questions or comments.

Todd Parkins, 165 Comanche Drive, asked how as the lower level would be finished on the foundation. Mr. Davis responded by showing him the plan. Mr. Parkins asked the floor elevation was 9' 1st floor and 8' 2nd floor and was told correct.

Valerie Mayro, 9 Nicholson Place, asked about the cars only doing something because of the DEP. Mr. Davis answered the side of the garage has to be a certain size. Mr. White added they can't be greater than 600 sq.ft. or it has to be above base flood elevation. Ms. Mayro asked then the 1st floor has to be 12.4' and then you add the first floor, then the 2nd floor, why does it have to go above 35', the house next door was on pilings, they're at 15', they have 1st and 2nd floor and meet it. Mr. Davis responded they don't have a walkup attic and have a flat roof. Ms. Mayro commented yes, but then most people end up making the attic a 3rd floor. Mr. Pryor responded that to do that they have to go to the town and before the Board. Ms. Mayro asked why he couldn't do what he did with the house on Gooseneck. Mr. Davis responded the one with the flat roof – because it's ugly and that for area to have other than flat roof they would have had to seek 39'-40'. Ms. Mayor said she's at 13.5' and she has 10' ceilings and they met the regulations. Mr. White explained the regulations back then were different and height is now measured from the center of crown of the road and why the definition of how to measure was changed.

Vice Chairman Whitson asked for any other questions from the public, hearing none asked if there were any other questions from the Board, to which there were none.

Mr. Davis stated he would like them to refer to A-8 which showed all the elevations. Mayor Mahon stated it wasn't in their packets. Mr. Davis presented A-8 to the Board members for their viewing.

Vice Chairman Whitson then asked for statements from the public.

Bill Sverapa, 155 Comanche Drive, stated they were technically the only residential property bordering the site and they love the plan.

Phil Eager, 170 Comanche Drive, asked how big was the house, was told it was smaller than the existing footprint and would have attached garage, asked how many square feet and was told about 2,600.

As no one else from the public wished to be heard Vice Chairman Whitson closed that portion of the hearing.

Mr. Kleiberg asked how was A-8 going to be addressed.

Vice Chairman Whitson expressed concern that they were missing pages A-4, A-6 and A-8 and the lack of the figures for the frontage of the other houses for 200' and that he believed it shouldn't be voted on without the information.

Mr. Fichter commented that it came down to the height variance as the other one was pre-existing lot; given the 2' in a flood zone, given dimensions shown on plans, as for average front yard setback, if the Board was to approve tonight it should be conditioned upon that being compliant.

Mr. Kahle and also change the driveway location if they have to move the house forward.

Vice Chairman Whitson asked if there was a drainage plan on file. Mr. White advised yes, a grading plan was submitted.

Mr. Fichter made a motion to approve the application subject to compliance with the average front setback and if not must return to re-present the application which was seconded by Mr. Kahle. The motion received the following roll call:

AYES: Mayor Mahon, Councilman Gallo, Mr. Kleiberg, Mr. Kahle, Mr. Fichter
NAYES: Mr. Whitson
ABSTAIN: None
ABSENT: Mr. Sullivan, Mr. Savarese, Mr. Widdis

Ms. Smith stated the motion carried.

OLD BUSINESS:

5. PB2015-13 DeMarco Development
91 Monmouth Road
Block 136, Lot 51
Request for Minor Subdivision with Variances

CARRIED from October 13, 2015

Mr. Shaheen advised his professional was present and he was ready to proceed. Mr. Shaheen stated this was a continuation from the hearing begun on August 11, 2015 which was adjourned by the Applicant to further evaluate making 2 conforming lots, summarized the original application which sought 1 conforming lot, 1 non-conforming lot; new plan provides 2 conforming lots with no variances.

Mr. DeNoia paused testimony and asked that the record reflect that this matter had been carried from the October 13, 2015 meeting, that service of notice had been reviewed and was in order and the Board had accepted jurisdiction and further advised that all applications that evening had provided the required service which had been reviewed, was in order and the Board had jurisdiction.

Charles Surmonte, Engineer/Surveyor, was sworn in and having previously been qualified and accepted by the Board proceeded with testimony. Mr. Surmonte described the differences between the original plan and the revised plan submitted that eliminates the need for the lot width variance and provides for 2 conforming lots, the potential locations for construction of a house either fronting on the road or a driveway to the rear of the lot which would need a DEP permit to construct in the wetland buffer, testified that building the house at the rear of the new lot would have less disturbance to the wetlands and what the DEP limits were for disturbance.

Mr. Shaheen invited questions from the Board

Mr. White asked questions about the disturbance to the woodlands and wetlands and wouldn't constructing a house at the rear disturb more of the woodlands than if constructed near the road, asked if the plan submitted superseded the original plan and was advised yes.

Mayor Mahon asked questions about what was previously discussed that it would front on Monmouth Road and would like the new configuration to front the house on Monmouth Road, concern for preventing a future owner to come back and ask for a 2nd home and the requirement for installation of sidewalk along frontage of property and that he would like to see the house at the front at the setback previously proposed to be even with the adjacent house.

Mr. Kahle stated for clarification he believes the Board would like to see the house front on Monmouth Road, remove the ability to place house in the rear of lot to reduce impact to woodlands, wetlands and adjacent neighbors with Mr. Shaheen arguing why the disturbance wouldn't be clear to the property line and that they had reworked the lot width at the Board's request .which constrains the new lot to have house built in the front. Mr. Kahle asked about the square footage of the possible footprint. Mr. Surmonte answered 50x50 but they would like to create a side-entry garage and if they built in the front they would have to do buffer averaging.

Vice Chairman Whitson questioned earlier statement that implied they wanted to construct house at the front but now has the impression that they want to do it in either location and asked they never intended

to put the house in the front. Mr. Shaheen responded that they would not be building the house and didn't intend it at either location but to place in the front would require additional buffer averaging of the wetlands.

Mr. Kahle asked then it's possible to put it in the front and was told yes.

Mr. Fichter asked if they would agree to a condition that there would be no easement across 51.01 to 51.02 and was told yes. Mr. Fichter commented he recalled sidewalk being the full frontage. Mr. Fichter stated as to the house being in the back opposed to the front he wasn't opposed to the back but would want a 35' buffer to leave the trees in the back to which the Applicant proposed 30' so that it was the same as the setback between their property of 51.01 and the setback of 51.02 as an area where trees couldn't be removed. Mr. Fichter stated that if the DEP approves access to the back than they have that ability and if they don't then they have the area in the front.

Mr. Kleiberg stated he wasn't as concerned with front vs. back but was concerned about the beak-shaped part of lot and if that area was used for access he wouldn't like it if he were the adjacent property owner.

Vice Chairman Whitson asked if there was any intention to build on the additional wetland area and was told no.

Mayor Mahon had additional comment and pointed out that at the last hearing the original reason for the Board's suggestion to reconfigure the lot line and use the space in the rear, 51.01 was to assist them in the averaging so that it would allow them to meet the setback requirements where the house was originally proposed fronting on Monmouth Road but now they are not suggesting doing the averaging and read a portion of the minutes from the last hearing. There was discussion as to the negotiating of moving the lot line and the constraints of the lot and it was their preference to not limit the owner of the new lot and buffer averaging takes up to 6 months and more and are trying to give the owner of this lot the time to do the buffer averaging.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for questions or comments.

Margaret A. Lippolis, 65 Monmouth Road, asked about the current house and a carport located behind it and asked if that was going to remain.

Paul DeMarco, Owner of the LLC, was sworn in and advised that there was a single car detached garage that would stay. Ms. Lippolis asked about the other 125' width that was facing Monmouth Road what the plan was for that house and was told nothing was planned to change the yellow house.

As no one else from the public wished to be heard Vice Chairman Whitson closed that portion of the hearing.

Vice Chairman Whitson asked if the sidewalk had been clarified. Mr. Shaheen answered no, and they would like the sidewalk to be limited to the actual – wherever the new driveway goes.

Mr. White asked if the sidewalk would require new curb. Mr. Kleiberg stated curb all the way which Mayor Mahon agreed. Mr. White offered language curb and sidewalk both for entirety. Mr. Shaheen asked if this was on State highway wouldn't DOT control. Mr. White responded yes, but the Borough has done the sidewalks. Mr. Shaheen commented that it was a sidewalk to nowhere.

Mr. Fichter made a motion to approve the application subject to the resolution reflecting no easement over 51.01 for driveway access 51.02, that 51.02 if house constructed to the rear of 51.02 that being

the part opposite Monmouth Road, that a 35' buffer (treed area) be maintained to the north, west and east of the properties, sidewalk and curb along the entire frontage (343.37') which was seconded by Mr. Kleiberg. The motion received the following roll call:

AYES:	Councilman Gallo, Mr. Kleiberg, Mr. Fichter
NAYES:	Mayor Mahon, Mr. Kahle, Mr. Whitson
ABSTAIN:	None
ABSENT:	Mr. Sullivan, Mr. Savarese, Mr. Widdis

Ms. Smith stated the motion did not carry.

Mr. Shaheen asked for an explanation for the basis of turning down a conforming subdivision.

Mr. DeNoia advised the Board that he was entitled as to an explanation as to why they voted the way they did.

Vice Chairman Whitson stated his concern was the extreme irregular shape of the lot which was pinched in the middle, concern for the fact that the house would disturb the wooded area in the rear and the possible impact on the neighbors around.

Mayor Mahon stated his concern was the Applicant's reluctance to site the house fronting on Monmouth Road.

Mr. Kahle stated he agreed with both.

Mr. Shaheen answered none of which were legitimate reasons for turning down a conforming subdivision, legally and would cost the Borough money when they appealed and wanted to make sure the Board understood that turning down a conforming subdivision was almost an automatic reversal and asked if the Board would reconsider.

Mayor Mahon asked if the Applicant was willing to site the house as originally proposed. Mr. Shaheen answered he didn't believe it made sense and wasn't the right place to put it because of the size of the area. Mayor Mahon stated that runs counter to their original argument when proposed to put it in the location. Mr. Shaheen answered no, they had a 100' wide lot which provided more area to provide for a play area in the back and a side entry garage and the area as now proposed did not have adequate functionality.

RESOLUTIONS:

8. PB2015-16: Pedersen, Soren & Marianne (60 Gooseneck Point Road). As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which Mayor Mahon made a motion to approve the resolution which was seconded by Mr. Fichter and received the following roll call:

AYES:	Mayor Mahon, Councilman Gallo, Mr. Kleiberg, Mr. Kahle, Mr. Fichter, Mr. Whitson
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Sullivan, Mr. Savarese, Mr. Widdis

Ms. Smith stated the motion carried.

9. PB2015-17: Portman, Robert (29 Shore Road). As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which Mr. Kahle made a motion to approve the resolution which was seconded by Mr. Fichter and received the following roll call:

AYES: Mayor Mahon, Councilman Gallo, Mr. Kleiberg, Mr. Kahle, Mr. Fichter, Mr. Whitson
NAYES: None
ABSTAIN: None
ABSENT: Mr. Sullivan, Mr. Savarese, Mr. Widdis

Ms. Smith stated the motion carried.

PETITIONS FROM THE PUBLIC: Vice Chairman Whitson opened the meeting to Petitions from the Public.

Roseann Letson, 37 Morris Place, asked questions about memorializing resolutions and the process; what would happen if between approving and memorializing there were questions or a desire to reverse a vote to which Mr. DeNoia provided guidance to the process. Ms. Letson asked about the Fort Monmouth Reuse Plan Amendment #4 to be scheduled for the November 10th workshop and asked if the process was similar to the last plan amendment.

Ron Sickler, 45 Morris Place, asked about a neighbor who was lifting due to damage from Sandy and the ability to waive permit fees as the neighbor was under a financial hardship and wanted to know if they could be waived for a hardship condition.

Mayor Mahon responded that the planning Board does not consider waivers for building permits but was a topic for the Governing Body, explained when the Borough had waived the permit fees for a period of time after Sandy and advised that the Governing Body could not grant any waivers if the requestor was eligible for reimbursement of those permit fees through the RREM program or through insurance, etc. but the process would begin by submitting a request to the Mayor and Council for consideration.

Mr. DeNoia added what statutory powers the Board would have and why it was not a matter that could be considered by this Board.

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

ADJOURNMENT: As there was no further business, the meeting was adjourned at 8:52 p.m. on a motion by Mayor Mahon which was seconded by Mr. Kleiberg and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary