



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • OCTOBER 20, 2020

Special

REMOTE/VIRTUAL

7:30 PM

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

- I. **Call to Order:** Vice Chairman Whitson called the meeting to order at 7:30 pm
- II. **Open Public Meetings Statement:** This special meeting 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. Registration for this meeting is required in order to participate. Mr. Whitson then read the virtual/remote meeting advisory advising the public how to attend and participate during public portions of the meeting as detailed on the meeting agenda.
- III. **Flag Salute:** Vice Chairman Whitson led attendees and members of the Board in the flag salute.
- IV. **Roll Call:**

Attendee Name	Title	Status	Arrived
Christopher Widdis	Chairman	Absent	
James Whitson	Vice Chairman	Remote	
Patty Cooper	Mayor's Designee	Remote	
Thomas Tvrdik	Class III	Late	8:04 PM
Joseph Foster	Environmental Committee Liaison	Remote	
John (Jack) Kahle	Class IV	Remote	
Michael Savarese	Class IV	Absent	
Robert Kleiberg	Class IV	Remote	
Darren Davis	Class IV	Remote	
Michael Dailey	Alternate I	Absent	
Jacob Rue	Alternate II	Remote	
Jeanne Smith	Board Secretary	Remote	
Kevin Kennedy	Board Attorney	Remote	
William White	Board Engineer/Planner	Remote	

- V. **New Business:** Vice Chairman Whitson advised that due to the extent of the other applications, the agenda is amended to take the 7 Balmer Court application first with no objections.

1. PB2020-22 Martelli @ Oceanport LLC
7 Balmer Court
Block 65.01, Lot 1.12

EXHIBITS:

- A-1 Land Development Application
A-2 Pool Plan, 1 Sheet, prepared by InSite Engineering, LLC, dated July 20, 2020
A-3 Maser Consulting Review Letter dated October 1, 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.

Mr. Kleiberg asked to comment and advised generally that the street name "Balmer Court" was named after Bobbie Balmer who lost his life in Vietnam in 1965 while serving in the Marines. There used to be a plaque under the flagpole at old Borough Hall.

While waiting for the public to call in, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2 and A-3. 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. Salvatore Alfieri, Attorney for the Applicant, introduced witness Patrick Ward.

Patrick Ward, Applicant's Engineer/Planner, was sworn in, presented his qualifications and having been before the Board previously was accepted by the Board as an expert in both fields. Mr. Ward thanked Mr. Kleiberg for his explanation why the street was named as such. Mr. Ward provided additional description of the location of the site, previous location of the borough hall, new subdivision

with the subject lot being located on the island in the center of the neighborhood; the house is under construction and all plantings proposed as part of the subdivision approval; the contract purchaser has requested that the applicant obtain approvals for an in-ground pool – prefabricated, with a perimeter patio and detached shed with pool equipment to be located in the northwest corner. The application requires variance relief for front yard setback for the pool on the west side. The application meets all other bulk requirements including impervious coverage at 34.5%. Mr. Ward further testified that lots with 3 frontages are unique and if this lot was a corner lot it would be compliant. Mr. Ward testified that there would be additional plantings to mitigate the view of the pool from that frontage. The location was selected in lieu of centering in the rear yard as the pool would have been less than 10' from the rear door. Mr. Ward further testified that the site meets the balance of the C2 criteria positive and negative as the positives are use of the rear yard which is limited in nature due to the 3 frontages, maximizing the use of the rear yard that can be fenced in versus negative impacts of pool.

Vice Chairman Whitson asked for questions from Mr. White and the Board.

Mr. White asked Mr. Ward regarding his statement that if the lot had been a corner lot it would be compliant. Mr. Ward said yes, if the opposite side had been a corner lot. Mr. White added that the lot is not a corner because its all one street and does not connect with another street and yes, is fairly unique.

Mr. White asked about safety fencing and where was it located – he only sees it on the eastern side. Mr. Ward pointed out the location on the plan.

Mr. Foster asked if they moved the pool in 10' it would eliminate the variance. Mr. Ward explained it would need to be an additional 20' which puts the pool right near the rear door. Mr. Foster asked about the shed setbacks.

Mr. Rue asked if it were a side-yard setback what would it be. Mr. Ward answered 10' – they tried to mimic as if it were a side yard.

Mr. Kahle asked questions about lighting for around the pool, on the house and would it impact the neighbors. Mr. Ward answered there was no additional lighting planned – the house was still under construction. Mr. Kahle asked if there would be any power in the shed. Mr. Ward answered that there was plan to put a light on the shed but no other utility.

Mr. Whitson asked how tall was the shed. Mr. Ward answered they did not yet have a specific design but would meet the 15' limit.

PUBLIC: Vice Chairman Whitson opened the hearing to questions from the public of this witness.

Michelle Perrulli, contract purchaser, advised that the lighting would be that already planned off the back patio where the staircase into the home is located and a light on the shed which would be facing the pool directed downwards to not impact any neighbors. He confirmed that the shed height would be 13.5' and no other utilities than the light.

Mr. Rue asked what other properties had been sold and what other ownership interests were notified and if there's actually anyone to object the variance being requested. Mr. White responded that no COs had been issued as of yet, lots are under construction and the only ones noticed were the abutting properties and 200'. Ms. Smith added that there were additional persons notified not on the required list.

Mr. Foster asked what was the depth of the pool and was told 8' at its deepest.

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

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

Motion to Approve the Application with conditions

RESULT:	ADOPTED [6 TO 1]
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Darren Davis, Class IV
AYES:	Whitson, Cooper, Foster, Kahle, Kleiberg, Davis
NAYS:	Rue
ABSENT:	Widdis, Tvrdik, Savarese, Dailey

Councilman Tvrdik entered the meeting at 8:04 PM

2. PB2020-16 Kelly, Thomas
75 Horseneck Point Road
Block 132, Lot 8

EXHIBITS

- A-1 Land Development Application
- A-2 Survey of Property, prepared by CC Widdis Surveying, LLC, dated June 15, 2018, last revised September 12, 2020

- A-3 Development Plan, prepared by CC Widdis Surveying, LLC, dated June 20, 2018, last revised November 2, 2018
A-4 Conceptual House Drawings, 7 Sheets, prepared by Owner, dated May 17, 2017
A-5 Maser Consulting Review Letter dated September 23, 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. Kennedy described and marked Exhibits A-1, A-2, A-3, A-4 and A-5. 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. White, Board Engineer/Planner, was sworn in.

Thomas Kelly, Owner/Applicant, was sworn in. Mr. Kennedy asked general questions including ownership, residency.

Mr. Kelly described the application for an addition to the existing dwelling to add a level and expand 18'-20' toward the curb. Mr. Whitson asked him for the exact measurement and was told 18'. Mr. Kelly described the lot dimensions and the need for variance relief for lot width, minimum lot area, minimum front yard setback. Mr. White assisted and advised that there was an unimproved right of way so he had a 2nd frontage which had a setback of 15' requirement. Mr. White added that the average front setback is 111.89' required where 90.72' existed and 72.26' proposed. The second frontage complies with requirement for 30' but does not comply with the average front setback.

Mr. Whitson asked if all of the variances were covered in his notice. Mr. White advised that his letter had advised of the 8 variances total and Ms. Smith and Mr. Kennedy confirmed that the notice was correct.

Mr. Kelly continued to describe the additional variances being sought for minimum side setback, maximum building coverage and maximum impervious coverage and average rear yard setback – impacted by the angle of the rear yard line.

Vice Chairman Whitson asked for questions from Mr. White and the Board.

Mr. White commented that the height is shown as 29' measured from the ground level, and while it was relatively flat it should comply with 35' from crown of road. Mr. White also commented that the driveway should be reconfigured so that the portion in the 15' right of way be moved so it doesn't encroach.

Mr. Kelly responded that he agreed with him on the height and will comply with the driveway comments.

Mr. Kahle asked if Mr. White could go through the variances being sought.

Mr. White, referring to his review letter, recounted the 8 variances being sought – (1) lot area – existing condition; (2) lot width – existing condition with adjacent lots also non-compliant; (3) front yard setback of 15' required from 15' right of way – 7' existing; (4) minimum side yard setback 10' required – existing house is 8.34' eastern property line; (5) maximum building coverage of 25% – 20.54% existing, 28.03% proposed; (6) maximum impervious coverage of 37% - 38% existing, 43.8% proposed; (7) average front yard setback 111.89 required – existing is 90.72', 72.26' proposed with new addition; (8) average rear yard setback 30.96' required – 31' existing, proposed is 25'.

Mr. Whitson commented, basically, half the variances are existing and he's not further exacerbating them but there are 4 new variances or at least increases.

Mr. Kahle asked Mr. White the height wasn't a problem and was advised he didn't believe it was a problem but would need to comply.

Ms. Cooper asked questions about the driveway and would removal of some of it help impervious coverage and was told no because its not on his property.

Mr. Foster asked questions about the rear yard, any wetlands. Mr. Kelly answered that he does have a CAFRA permit for the dock.

Mr. Tvrdik asked questions about the right of way – was it Borough owned, utility owned. Mr. White responded he would have to research it but his records note that it is the Borough's right of way.

Mr. Davis commented that he would like to see the driveway reduced to single lane, 12' wide, to comply the side setback from right of way and help to reduce coverage. Mr. Davis asked if Mr. White was okay with the drainage. Mr. White had no concerns of impacts for the neighbors.

Mr. Rue asked questions about the use of the right of way as a storage area from a satellite image he was looking at; and for the double-wide driveway it appears that they've taken advantage of the right of way; it also appears a boat parked up against the house that looks like its on the easement.

Mr. Kahle commented that it would be helpful if the plans were clearer and better identified what the Applicant was seeking and show some changes for the driveway and reduce the coverage. The house plans with 4 sliders are also rough to view.

Mr. Davis commented he would like to see better plans and would like to see the coverage reduced and additional elevations on the house.

Mr. Rue asked for Ms. Smith to show the right of way and items on the satellite image to show the Board.

Councilman Tvrdik asked if the Applicant had made attempts to purchase from adjacent neighbors to purchase to make the lot more conforming. Mr. Kelly advised he wasn't aware of that requirement but would comply.

Mr. White commented that the right of way was only 15' and would bring him to 65' where 120' required and even with purchase of the lots outside he didn't think it could be brought to compliance. Also, the Borough has not for the last few years vacated any right of ways – since 2007. Councilman Tvrdik clarified he only asked if the attempt had been made for the process.

There was discussion regarding what items the Board would like to see the Applicant address before voting on the application: additional grades, a plan that clearly identifies what is being sought, address the driveway issue and contact the Engineer for further direction.

PUBLIC: Vice Chairman Whitson opened the hearing to questions from the public of this witness. As there was no one from the public, Vice Chairman Whitson closed that portion of the meeting.

The Applicant requested to carry the application and would have revised plans on file 10 days in advance of the hearing date and consented to extend the timeframe on which the Board had to act on the matter.

Motion to Carry the Application to the November 24, 2020 Meeting with No Additional Notice Required

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

3. PB2020-18 Beim, Jake
177 Comanche Drive
Block 40, Lots 21 & 21.01

EXHIBITS

- A-1 Land Development Application
- A-2 Architectural Plans, 2 Sheets, prepared by Anthony Condouris Architect Inc., dated May 14, 2020
- A-3 Boundary & Topographic Survey Map, prepared by Richlan, Lupo & Associates, Inc., dated July 29, 2019
- A-4 Plot Plan, 4 Sheets, prepared by InSite Engineering, LLC, dated May 8, 2020, last revised September 2, 2020
- A-5 Maser Consulting Review Letter dated September 23, 2020
- A-6 Google Aerial Photograph of Site and Surrounding Properties, undated.

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. Ms. Smith provided the public with options to participate. While waiting for the public to call in, Mr. Kennedy described and marked Exhibits A-1, A-2, A-3, A-4 and A-5. 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. White, Board Engineer/Planner, was sworn in.

Thomas Hirsch, Attorney for the Applicant, gave opening remarks, introduced the expert witnesses to be heard and called for Jake Beim

Jake Beim, Applicant/Owner, was sworn in. Mr. Beim testified to ownership of the property, intention to knock down existing house which had been boarded up since Superstorm Sandy; the house has since been demolished and the lot is now vacant. Mr. Beim testified that he intends to build new house for himself. Mr. Beim also testified that an attempt to purchase additional land to bring the lot width into further compliance from the Borough's unimproved right of way was unsuccessful.

Vice Chairman Whitson asked for questions from the Board.

Councilman Tvrdik stated for the record that he was the realtor involved with the transaction but had no interest or conflict. Mr. Kennedy asked questions regarding direct or indirect financial relationship which there were none and asked if Mr. Tvrdik had any relationship with the Applicant that would prevent him from impartially viewing the application and was told no.

PUBLIC: Vice Chairman Whitson opened the hearing to questions from the public of this witness. Ms. Smith advised there were several emails submitted but none with questions for Mr. Beim. Ms. Smith asked the members of the public in attendance to use the raise hand tool to ask questions. As there was no one from the public with questions for this witness, Vice Chairman Whitson closed that portion of the meeting.

Mr. Kennedy asked Mr. Hirsch concerning the engineer's review letter seeking clarification on the height variance and whether it was a 'd' variance which impacts the combined Board. Mr. Hirsch advised that it was a 'c' variance.

Mr. Kennedy next addressed Ms. Smith's statement about email comments and advised of recent local finance board regulation that indicates the Board will receive written comments and at some point will read those into the record.

Patrick Ward, Applicant Engineer/Planner, was sworn in for the record, presented his qualifications and was accepted as an expert by the Board in both fields. Mr. Ward testified to the preparation of the plot plan and provided responses to each of the items in Mr.

White's review letter including lot location, size and characteristics; located next to unimproved portion of Mohican Ave; variance needed for lot width minimum of 120' with 75' existing; he presented a Google Aerial Photograph of the Site which was marked as Exhibit A-6. Mr. Ward referring to A-6, outlined the boundaries of the lot and the surrounding lot characteristics; the site originally had a single family dwelling with long driveway; while the lot was narrow, the lot area exceed the minimum due to its lot depth. Mr. Ward testified that the site would collect roof runoff and direct it to the river and would comply with additional drainage recommendations; the garage floor elevation is slightly elevated to provide protection from flooding. Mr. Ward testified that the lot width was an existing condition with no opportunity to cure it due to development on one side and unimproved right of way on other side that the Borough had declined to sell and falls within the C(1) criteria of the MLUL. Mr. Ward testified concerning the preparation of the average front and rear setbacks; they are proposing 93.56' where 106.5' required for rear yard setback which in his opinion was an improvement from the previous dwelling which was 55' from the water, the site is also impacted by the shoreline which meanders in at their site and skews the average; the new house is proposed further back and was more in line with the neighbors; the front average setback is also skewed due to the one lot south which has the house placed closer to the street and has limited water frontage due to the lot width at the rear. Mr. Ward testified that the setback anomalies fall within the C2 hardship criteria. Mr. Ward next testified concerning the side yard setback which was placed to mimic the previous dwelling of 3.3' side setback, intention was to minimize the impacts to the neighbor to the north and were looking to create perceived spacing of development to the north. Mr. Ward provided further testimony concerning the proposed building height of 37.0' where 35' is permitted. The finished floor elevation is 12.4' and the ridge elevation is 42.7' which results in 37' building height. They've designed the home to be as low as possible while still complying with the standard for flood elevation purposes. There is a loss of 7.4' when compared with the height of Comanche Drive and the grade at the house location. They view the height variance as both a C1 and C2 variance due to the loss of height from the road to the house. He provided positive criteria including eliminating the side yard setback issue with the house to the north, elimination of the combined side yard setback from the previous house, improving the rear yard setback and eliminating the accessory structure in the front yard and its encroachment onto Mohican Ave. The application furthers the purposes of planning as it is an appropriate use and development, secures safety from fire, flood and other natural and man-made disasters, complies with the latest codes of the Borough and FEMA requirements for flood hazard area, provides adequate light, air and open space. The proposed house location provides lateral spacing between existing development and gives the impression of good open space between the structures. Further the application is an improvement to the neighborhood and conserves property values with the new construction. He outlined the negative criteria including the rear yard setback which minimally impacts the river view, the front yard setback has minimal impact and the height of the house is minimized by the distance visually from the road and believe the application does not cause substantial detriment to the public good or the zone plan. Mr. Ward also reviewed the maximum 25% building coverage which was minimal at 10% proposed and indicates the intent of the Applicant to not seek over development of the site with a monstrous house.

Vice Chairman Whitson asked for questions from the Board.

Mr. White redirected Mr. Ward to Exhibit A-6 and asked for testimony on the actual average cited for the house. Mr. Ward's expressed his opinion that the proposed house location was better suited and more appropriate for the developments to the north, west and east.

Ms. Cooper asked Mr. White his thoughts regarding Mr. Ward's comments concerning the road, distance and building height.

Mr. Davis asked questions about the patio elevation, landscape buffering, building height from the elevation from the road.

Mr. Foster asked questions about the proximity of the property to the north, and the intent of the footprint to the sideline on the north.

Mr. Kleiberg asked about the south property line and any plantings that would infringe on the paper street.

Mr. Whitson expressed concern about the closeness on the south side and the proposed height.

PUBLIC: Vice Chairman Whitson opened the hearing to questions from the public of this witness. Ms. Smith asked the members of the public in attendance to use the raise hand tool to ask questions.

Celia Tennenbaum, Comanche Drive, asked about the Mohican Ave area which is used tremendously by the neighborhood for walking and access to the waterway and what was the thinking behind the 4' setback versus the required 10-15'. Mr. Ward reiterated his earlier testimony that they want to minimize the impact to neighbors to the north and that there was no entitlement to neighbors to the west and south to view through the property and there was no change to the paper street used by the neighbors. Discussion ensued with concern for the proposed setback, the towering appearance of the structure to those using the open space.

John Fornazor, 175 Comanche Drive, stated his issue was the views and asked questions about the average setbacks, the location of the house comparison to his dwelling location, asked about the patio height in the rear.

Susan Hunt, 165 Comanche Drive, asked questions about exhausting all options for the location and the height of the structure; and questioned why the house couldn't be located further to the north and increase the setback from Mohican Ave.

Toni Sverapa, submitted via email, expressed concern about the drainage and flooding of the paper street which is currently wet from the bulkhead to midway down the street even on the lightest rainfall and with no drainage currently and the applicant's raising of the land and the 3' setback, asked where is there room to remove the runoff? Mr. Ward reiterated his earlier testimony that they would collect runoff from the front and sides and discharge to the river.

Steven Sarles, 26 Mohican Ave, asked what was the height of the demolished house and was told that part was not surveyed but the finished floor was 9' which was not compliant with the flood plain.

While Ms. Smith reviewed emails for questions, Mr. Davis asked questions about the inlet going into the river and its design, and the elevation of the house clarification.

As there was no one from the public with questions for this witness, Vice Chairman Whitson closed that portion of the meeting.

Due to the lateness of the hours and the Board's policy of no new witness after 10pm, the Applicant requested to carry the application. Mr. Kahle commented that he felt the Board had made several comments and concerns and should outline them for the Applicant to address when they come back.

Ms. Smith added that there had been several comments submitted by the public majority of which concern the 3' side yard setback. There was discussion on whether to read the email comments onto the record.

Mr. Foster stated he felt the comments should be held until the end.

Mr. Kleiberg stated his concern was the side setback and they should consider redesign.

Mr. Hirsch requested copies of the email comments for them to review. Mr. Hirsch also commented that the Applicant purchased the site and the existing home historically sat 3' from the side yard and was trying to match the combined side yard to address those variances and it was their thought to maximize the space with the neighbor to the north, not necessarily the vacant lot side.

Mr. Davis commented further that the Applicant should take into consideration the size and height of the previous structure and its impression when walking the paper street versus the proposed structure that would appear as a skyscraper with that elevation.

Mr. Rue made a motion to carry the application.

Mr. Kennedy asked Mr. Hirsch if he would grant an extension of the decision deadline which Mr. Hirsch consented to on behalf of the Applicant.

Motion to Carry the Application to the November 10, 2020 Meeting with No Additional Notice Required

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jacob Rue, Alternate II
SECONDER:	Robert Kleiberg, Class IV
AYES:	Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis, Rue
ABSENT:	Widdis, Savarese, Dailey

- VI. Petitions from the Public:** Vice Chairman Whitson opened the meeting to Petitions from the Public advising the public on how to participate.

Celia Tannenbaum, Comanche Drive, asked about the meeting moved to November 10 and asked if it could be re-notified. She was advised that the notification requirement is the 200' list and that the Board had no statutory provision to impose such.

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

- VII. Adjournment:** As there was no further business, the meeting was adjourned at 10:19 pm on a motion by Ms. Cooper which was seconded by Mr. Foster and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary