

**OCEANPORT PLANNING BOARD
MINUTES
October 13, 2010**

Vice-Chairman Whitson called the meeting to order at 7:30 p.m. and announced that the meeting had been advertised in accordance with the Open Public Meetings Act.

Vice-Chairman Whitson led the flag salute.

MEMBERS PRESENT: Mr. McCarthy, Councilman Bertekap, Mr. Savarese, Mr. Kleiberg, Mr. Sullivan, Mr. Gervolino, Ms. Flor, Mr. Fichter, Mr. Whitson

MEMBERS ABSENT: Mr. Ibex, Mr. Widdis

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

BOARD BUSINESS:

1. Minutes of the meeting of August 11, 2010 were approved as presented on a motion from Mr. McCarthy and a second from Mr. Savarese and approved by the eligible Board members.
2. Minutes of the meeting of September 22, 2010 were approved as presented on a motion from Mr. Kleiberg and a second from Mr. McCarthy and approved by the eligible Board members

OLD BUSINESS:

3. PB File: 2010-09 *Carried from September 22, 2010*
Joseph Talerico
Block 136, Lot 28
1246 Turf Drive
Request for Bulk Variance for Shed

A-3 Photographs 1-7, taken by the Applicant

A-4 Enlarged Copy of Survey of Property prepared by Leon S. Avakian, Inc., dated June 10, 1972

Robert Skolnik, Attorney for the Applicant, explained his role and the changes to the application in response to the concerns presented at the last meeting. Joseph Talerico, Applicant, was sworn in. The Board's Professional Engineer and Planner, Mr. White, was also sworn in.

Mr. Skolnik referred to the revised survey submitted previously to the Board and described the changes made including a change in the side yard setback to 8' where 5' had been requested where 15' was required with a rear yard setback of 10' thereby eliminating the need for a rear yard variance and a reduction in the size of the shed from 10'x18' to 10'x14'.

Mr. Talerico described 7 photographs he took of his rear yard which were submitted as Photographs 1-7, which were marked as **Exhibit A-3** and explained his reasons for the proposed location of the shed.

Vice-Chairman Whitson asked what the other object in the yard was. Mr. Talerico answered it was a 9'x9' shed that would be removed. Vice-Chairman Whitson asked if the new shed would be on a slab. Mr. Talerico answered yes. Vice-Chairman Whitson asked if there were any changes such as electricity or otherwise. Mr. Talerico answered no but would like the option to install electricity in the future but had no plans to install plumbing or water.

Mr. McCarthy asked questions about the distances from the fence to the trees which Mr. Talerico answered the tree was 24' from the fence.

Ms. Flor asked what the height of the shed was. Mr. Talerico answered 10' 9".

Vice-Chairman Whitson asked what was the height of the other shed. Mr. Talerico answered 10'9" as he hadn't had the correct measurement at the last meeting.

Mr. Talerico also presented for the record the enlarged copy of a Survey of Property prepared by Leon S. Avakian, Inc., dated June 10, 1972 showing the revised proposed location for the shed which was marked as **Exhibit A-4**.

PUBLIC:

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

Mr. Skolnik gave concluding remarks.

Mr. Savarese made a motion to approve the application for a 14'x10' shed 8' from the side yard, 10' from the rear yard with a ridge height of 10'9" and the removal of the existing shed with the possibility for future electric installation which was seconded by Mr. Gervolino and received the following roll call:

AYES:	Mr. McCarthy, Councilman Bertekap, Mr. Savarese, Mr. Kleiberg, Mr. Sullivan, Mr. Gervolino, Ms. Flor, Mr. Fichter, Mr. Whitson
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Ibex, Mr. Widdis
INELIGIBLE:	None

Ms. Smith stated the motion carried, application was approved.

NEW BUSINESS:

4. PB File: 2010-08
Salvatore & Anne Marie Massaro
Block 40, Lot 4
223 Comanche Drive
Request for Bulk Variances to construct single family home

- A-1 Plot Plan prepared by Charles Surmounte, dated August 23, 2010, last revised September 21, 2010**
- A-2 Set of Architecturals, Sheets 1-4, prepared by Passman Ercolino Architects, P.C. , dated August 23, 2010, last revised September 28, 2010**
- A-3 Photograph #1 of Becker Residence**
- A-4 Photograph #2 of Becker Residence**
- A-5 Photograph #3, View of Dwelling to the North, taken by Joseph Massaro,**
- A-6 Photograph #4, View of Dwelling to the South, taken by Joseph Massaro,**
- A-7 Photograph #5, Water-ward View North from Subject Lot , taken by Joseph Massaro**
- A-8 Photograph #6, Looking Southerly from Subject Lot taken by Joseph Massaro**

A-9 Photograph #7, View from Location of NE Corner of Proposed Dwelling, taken by Joseph Massaro

Mr. Sullivan recused himself from the matter due to a conflict.

James Berube, Attorney for the Applicant, gave a description of the application to remove the existing dwelling and construct a new single-family dwelling with a pool, the variances being requested and the cause for the variances. Mr. Berube submitted two exhibits for the record – a Plot Plan prepared by Charles Surmonte, dated August 23, 2010, last revised September 21, 2010 which was marked as **Exhibit A-1**, and a Set of Architecturals, Sheets 1-4, prepared by Passman Ercolino Architects, P.C. dated August 23, 2010, last revised September 28, 2010 which was marked as **Exhibit A-2**.

The following persons were sworn in: Anthony Ercolino, Architect, Joseph Massaro, Builder and Charles Surmonte, Professional Engineer and Surveyor.

Mr. Berube stated that the application had been deemed complete by way of letter from Ms. Smith on September 15, 2010 and asked for the record that service and publication be accepted. Mr. DeNoia answered service and publication were reviewed and that jurisdiction was accepted.

Mr. Berube asked questions of Mr. Surmonte regarding his qualifications and the Board accepted Mr. Surmonte as an expert in his fields. Mr. Berube asked questions of Mr. Surmonte including the lot size, the topography, the existing structures, the existing non-conformity of the lot frontage, the inability to purchase property from existing neighbors as those lots were also non-conforming as to width, revisions to the plan to address Mr. White's review letter concerning stormwater management including drainage systems on both sides to collect drainage from roof, yard areas, front and driveway to insure no runoff to the adjoining properties.

Mr. White stated that his items had been mostly addressed other than fence requirements for pools and the front yard fences that were proposed met the 50% open requirement.

Mr. Surmonte gave additional testimony regarding elevations, first floor and otherwise to comply with flood and town requirements, the proposal of a crawl space and not a basement to comply with NJDEP requirements and the lot's only non-compliance was the lot width.

Ms. Flor asked about the gate's location which Mr. Surmonte answered that it should have been shifted when they adjusted the driveway location and would be fixed. Ms. Flor asked about the 7' contour near the garage and why the proposed garage elevation was 11.4' Mr. Surmonte answered that the garage floor had to be 1' above flood due to the size of the proposed garage per NJDEP regulations.

Mr. Whitson asked for the distance from the pool to the south sideline. Mr. Surmonte answered 10'. Mr. Whitson asked if the pool would be fenced in. Mr. Surmonte answered it would be.

PUBLIC:

Mr. Whitson opened the hearing to the public on that witness only. As there was no one from the public Mr. Whitson closed that portion of the hearing.

Mr. Berube asked questions of Mr. Ercolino regarding his qualifications and the Board accepted Mr. Ercolino as an expert in the field of architecture. Mr. Ercolino provided testimony describing the proposed house, its layout, the various features including patio, attached garage, dormers and its suitability to the neighborhood.

Mr. Berube presented 2 photographs of the Becker residence located 7 properties south of the subject property with similar design features which were marked **Exhibit A-3 and Exhibit A-4**. Mr. Berube referring to Exhibits A-3 and A-4, asked Mr. Ercolino questions about the similar features between the

Massaro lot and the Becker lot to which Mr. Ercolino responded that the lots are similar in width and that similar materials were used. Mr. Berube referring to Exhibit A-1 asked Mr. Ercolino to provide testimony regarding the proposed design. Mr. Ercolino provided testimony about the various improvements, their features and why the reasons for the proposed locations as it was the Applicants request that the new development maintain the present water views for all neighbors and maintain as much rear yard as possible.

Mr. White asked Mr. Ercolino to discuss the proposed access to the 2 ½ floor. Mr. Ercolino described the area which would house 2 furnaces and some storage, limited ceiling heights and limited areas as rooms below had elevated ceilings and that the storage was necessary as their would be no basement.

Mr. White asked if the attic were going to be finished or insulated. Mr. Ercolino answered the attic over the main house would not be finished and that the insulation would be where they walked.

Mr. Fichter referred to Sheet A-1 and asked if it were a little door at the top of the stairs. Mr. Ercolino answered it was the door to the closet underneath the stairs.

Mr. Gervolino asked if any of the rooms would be looking into a neighbor's bedroom causing a privacy issue. Mr. Ercolino stated no and went over the windows from each bedroom and where they viewed.

Mr. Savarese asked how he defined the roof height. Mr. Ercolino answered that the roof height was determined from the average grade from the street to the average grade at the house and that medium was where they took their elevation from.

Mr. Savarese asked Mr. White if it were from where the grade was or proposed. Mr. White answered the Ordinance was unclear but he looked at it from the existing which they were compliant and it was not determined that a variance for height was necessary.

Mr. McCarthy asked if there were any windows in the attic. Mr. Ercolino described one window that comes out on the front, was very small and mostly there for aesthetics. Mr. McCarthy asked if the roof would be supported by trusses. Mr. Ercolino answered no, it would be stick-built.

Mr. Kleiberg asked if the existing house was on slab, crawl, basement. After conferring with builder and engineer, Mr. Ercolino answered crawl.

Mr. Kleiberg asked Mr. White who would be the Zoning Officer. Mr. White answered that the Applicant was not the same Sal Massaro as the Borough's Zoning Officer and that they were distant relatives.

Mr. Whitson asked questions about the proposed retaining wall and impacts to the neighboring views of the water and was told that the walls would not exceed 30" in height at its highest behind the garage and descends down to grade and would have a 4' fence on top.

Mr. White asked Mr. Surmounte if the fence would be open and was told yes and referred to the plan detail.

Mr. McCarthy asked if the project would need CAFRA and was told yes and that the application had been made and was pending and acknowledged that any approval would be subject to obtaining the CAFRA permit.

Mr. Whitson asked for assurance that stormwater drainage was addressed and was advised yes by Mr. Surmounte.

Mr. Savarese asked what the house coverage was and what it could have been. Mr. Surmounte answered it was 21.6% where 25% was permitted.

PUBLIC:

Mr. Whitson opened the hearing to the public on that witness only.

Marianne Weir, 222 Comanche Drive, was sworn in and asked questions about the height of the proposed dwelling and discussion proceeded between Ms. Weir, Mr. Surmounte and Mr. Berube regarding how the allowable height is calculated.

Cynthia DeSousa, resides at 95 Algonquin and owns 213 Comanche Drive, was sworn in and asked questions about the comparison with the Becker home located down the street and discussion proceeded between Ms. DeSousa, Mr. Ercolino, Mr. Berube regarding the square footages of each home, lot widths, the attic space of the proposed dwelling and that it would not become habitable space, explanation of why the attic space could not become habitable space due to low ceiling heights and ceiling heights from the 2nd floor significantly limit the area in the attic and the proposed front setback distances.

Rick Karinja, 227 Comanche Drive, was sworn in and ask to present a letter on behalf of Jeff Bey of 222 Comanche Drive and was told that the Board could not accept the letter for consideration as the Municipal Land Use Law requires live testimony and the purposes behind that law. Mr. Karinja asked questions related to the size and setbacks of the existing house, the proposed footprint of the house, the size of the garage, the front setbacks of the dwellings north and south, the proposed front setback of the garage and its relation to the front setbacks of structures located north and south, and a section of the zoning ordinance 390-14 regarding Yard Exceptions and its requirements concerning front setbacks.

Mr. Whitson stated that there was concern that the attic could be converted to living space and asked if the Applicant would agree to a condition of approval to restrict that to non-living space.

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

Mr. Berube continued with testimony asking questions of Joseph Massaro, Jr., owner of Massaro Construction, cousin to the Applicant and Builder for the Applicant., including how the design would fit the desires of the Applicant, its suitability to the neighborhood, its similarity to the Becker home 7 properties to the south, why the dwelling and garage were plotted with the proposed setbacks to balance location between adjoining dwellings, the intent to preserve existing river views, the purpose for the stairs to the attic for easy access to storage areas as no basement or crawl were allowed at that location and why it was not feasible for the attic to be used as living space.

Mr. Berube introduced two photographs taken by Joseph Massaro of the view from the subject lot looking north and one looking south which were marked as Exhibit **A-5 and A-6**. Mr. Massaro described each of the photographs. Mr. Berube introduced three additional photographs which were marked as Exhibits **A-7, A-8, A-9**, and asked Joseph Massaro to describe each. Mr. Massaro described the photographs taken from the existing house looking north towards the water, the southerly view from the property and one from the location of the proposed dwelling. Mr. Berube asked additional questions of Joseph Massaro including a review of the surrounding homes and their distances from the roadway and the materials to be used for the construction of the propose dwelling and its suitability with the neighborhood which concluded Mr. Massaro's testimony.

Mr. McCarthy asked questions about the proposed house's location closer to the roadway than adjacent homes and if landscape buffers or plantings would be installed.

Mr. Savarese asked why they were requesting a 3-car garage. Mr. Massaro answered that was what the owners requested and that 3-car garages were not unusual. Mr. Berube added that in today's families with 2 children near college-age that 3-car would not be unusual.

Mr. Whitson asked what the frontage would be if the garage was reduced to a 2-car garage. Mr. Massaro answered it would add about 10'.

PUBLIC:

Mr. Whitson opened the hearing to the public on that witness only.

Marianne Weir, 222 Comanche Drive, asked questions including the reference to the Becker home as a comp, what was the front setback for the Becker site and the impacts of the Becker property on water views and the values of the homes across the street.

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

Mr. Whitson asked Mr. White regarding the question about the code to which Mr. White confirmed the portion of the code that requires front and rear yard setbacks to be within the average of the properties on both sides for 200'.

Mr. Whitson asked in light of the information was that noticed for and if not would it have to be separately.

Mr. Berube responded that the Zoning Officer denial only referenced 2 variances and that was what the Applicant noticed and that the catch phrase "any and all other variances as the Board may deemed" and that if the Zoning Officer had not determined it that it would not be appropriate to insert it as a requirement.

There was additional discussion between Mr. DeNoia, Mr. Berube and Mr. Whitson on how the hearing should proceed and whether or not they could proceed – Mr. Berube felt the additional variance was covered under the "catch" phrase, however, Mr. DeNoia disagreed with the argument that the Zoning Officer's miss of the variance on the denial was not reason enough to not require new notice and the benefit of re-notice when the application was receiving significant community response to avoid any item for prerogative rit.

At the request of Mr. Berube, the Board adjourned for a 5-minute recess at 9:06 p.m., which was unanimously approved by the Board members present. Mr. Whitson called the meeting back to order at 9:06 p.m. with all members present.

Mr. Berube stated that in consultation with the Applicant, they request that the matter be carried which was granted for the November 10, 2010 meeting with no new notice required.

Mr. Whitson asked that the record reflect that Mr. Sullivan had resumed his seat.

- 5. PB File: 2010-10
Dwight & Deborah Macock
Block 93, Lot 3
25 Asbury Avenue
Request for Bulk Variance – 2 ½ stories proposed where 2 allowed

A-1 Survey of Property prepared by Cranmer Engineering, P.A. dated July 27, 2010.

A-2 Set of Architecturals, Sheets 1-3, prepared by Anthony M. Condouris, AIA, dated August 30, 2010.

A-3 Color Rendering of Proposed House

A-4 Large, 3-Dimensional, Black and White Rendering of Front of Proposed House

- A-5 Large, 3-Dimensional, Black and White Rendering of Rear of Proposed House
- A-6 Large, 3-Dimensional, Black and White Rendering of Garage Elevation
- A-7 Photograph Front View, 25 Asbury Avenue, taken by Dwight Macock
- A-8 Photograph Rear Ground Level View Looking North, 25 Asbury Avenue, taken by Dwight Macock
- A-9 Photograph Rear View Looking North from Roof of Existing Home, 25 Asbury Avenue, taken by Dwight Macock
- A-10 Photograph Rear View Looking at LaRosa Home, 25 Asbury Avenue, taken by Dwight Macock
- A-11 Photograph of Homes on Monmouth Blvd., taken by Dwight Macock
- A-12 Photograph of 25 Shore Road, taken by Dwight Macock
- A-13 Photograph of 37 Pocano Avenue, taken by Dwight Macock
- A-14 Photograph of 437 River Street, taken by Dwight Macock

The following persons were sworn in: Dwight Macock, Applicant and Anthony Condouris, Architect. Mr. Condouris gave his credentials and was accepted as an expert in the field of architecture.

Mr. Macock described for the Board his application requesting to remove the existing house and construct new using the same footing but elevated in order to comply with the newest flood regulations and the request to construct a 2½ story dwelling where only 2 stories were permitted.

Mr. Macock introduced a Survey of Property prepared by Cranmer Engineering, P.A., dated July 27, 2010 which was marked as **Exhibit A-1** and a Set of Architecturals, Sheets 1-3, prepared by Anthony M. Condouris, AIA, dated August 30, 2010. Mr. Macock stated the intent for the ½ story to achieve a water view from the house.

Mr. Condouris described the features of the lot, the orientation of the proposed house to achieve water views down the river, the features of the proposed dwelling including a small sunroom with deck on the attic level of the house thereby creating a ½ story. Mr. Condouris presented a color rendering of the proposed house which was marked as **Exhibit A-3**, a Large, 3-Dimensional, Black and White Rendering of Front of Proposed House which was marked as **Exhibit A-4**, a Large, 3-Dimensional, Black and White Rendering of Rear of Proposed House which was marked as **Exhibit A-5**, and a Large, 3-Dimensional, Black and White Rendering of Garage Elevation which was marked as **Exhibit A-6**.

Mr. Whitson asked if the 2nd and 3rd floor decks would present privacy issues with the adjacent neighbors. Mr. Condouris responded that the back corner of the property there were trees and a shed and that the decks were positioned to look down the river.

Mr. Savarese asked if access to the attic and storage was only through the garage or also the house. Mr. Condouris clarified that the access was through the mudroom inside the house. Mr. Savarese asked how far away the house directly across the lagoon was from the decks, the width of the lagoon which Mr. Condouris answered.

Mr. Gervolino asked if the 3rd floor was for storage or only for access to the deck for viewing and if the storage over the garage was sufficient for the house. Mr. Condouris answered yes.

Mr. Whitson asked if the room would be living area. Mr. Condouris answered yes.

Mr. Kleiberg asked for the height of the sun room. Mr. Condouris answered 8 feet.

Mr. Fichter asked Mr. White from your t-fec measured from both streets Mr. White answered only to the street which it faces.

Mr. White asked the reason for the 3rd floor deck was for a view of the water and what would be the reason be for the sunroom. Mr. Macock responded to this by presenting 4 color photographs depicting the existing views of the single story ranch at various positions from the rear as well as one taken from the roof to project the potential view from a 2nd story which were marked as **Exhibits A-7, A-8, A-9 and A-10**. Mr. Macock continued that they were not able to build towards water on their property and chose the proposed solution to achieve the maximum benefit of their property and the water view. Mr. Macock presented 4 additional photographs of waterfront properties on Shore Road, Monmouth Boulevard, and River Street having 3rd floor areas or decks which were marked as **Exhibits A-11, A-12, A-13 and A-14**.

Mr. Gervolino asked questions about the distance from his home to properties with 3rd floor areas.

PUBLIC:

Mr. Whitson opened the hearing to the public on that witness only.

Sal LaRosa, 412 Milton Avenue, asked questions about the ½ story area including window locations, what would be finished and livable space, what constituted an attic, the total height of the proposed dwelling and how that was measured, the difference between an attic and a 3rd floor, the distance of the proposed roof deck from his bedrooms on that side of the house, concerns with privacy and whether the Applicant would reside there.

Mr. LaRosa further commented on his concerns regarding the impacts of the home, that it was not necessary to have a 3rd floor deck just outside the bedroom windows on that side of his house, concerns with noise, didn't understand why they didn't purchase a property with a view instead of forcing a view over someone's home where he could just put up bushes that block the view.

Deborah Macock, 25 Asbury Avenue, was sworn in and gave a statement that they view of the water from the ground floor was blocked by Mr. LaRosa's shed and that was the reason for the proposed deck.

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

Mr. Savarese asked Mr. Macock if he was willing to perform additional survey work to show the location of the proposed deck in relation to the LaRosa bedrooms and deck. There was additional discussion on what could be done to provide the Board with additional information. Mr. Macock asked if they could have a moment to confer.

The Board adjourned for a brief recess at 10:09 p.m., which was unanimously approved by the Board members present. Mr. Whitson called the meeting back to order at 10:10 p.m. with all members present.

Mr. Macock stated that he would provide the information asked for and that he would have his surveyor perform the additional work. There was additional discussion on the CAFRA requirements and the necessary first floor elevations as well as other alternatives to achieve a water view.

At the Applicant's request, the matter was carried to the November 10, 2010 meeting with no new notice required.

RESOLUTIONS:

3. Stacy Shade – As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which, Mr. McCarthy made a motion to approve the resolution which was seconded by Mr. Kleiberg and received the following roll call:

AYES: Mr. McCarthy, Mr. Savarese, Mr. Kleiberg, Mr. Sullivan, Mr. Gervolino, Ms. Flor, Mr. Whitson
NAYES: None
ABSTAIN: None
ABSENT: Mr. Ibex, Mr. Widdis
INELIGIBLE: Councilman Bertekap, Mr. Fichter

4. Oceanport Planning Board – Ms. Smith read a Resolution of the Board recommending that Mayor and Council proceed with a proposal by the firm Clark Caton Hintz proposal entitled “Monmouth Park Redevelopment Study”.

Mr. McCarthy made a motion to approve the resolution commenting that he believe it important that the Borough be prepared in the event that Monmouth Park fails which was seconded by Mr. Kleiberg and received the following roll call:

AYES: Mr. McCarthy, Councilman Bertekap, Mr. Savarese, Mr. Kleiberg, Mr. Gervolino, Ms. Flor, Mr. Fichter, Mr. Whitson
NAYES: None
ABSTAIN: Mr. Sullivan
ABSENT: Mr. Ibex, Mr. Widdis
INELIGIBLE: None

PETITIONS FROM THE PUBLIC: None

ADJOURNMENT: As there was no further business, the meeting was adjourned at 10:23 p.m. on a motion by Mr. Savarese which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary