



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • OCTOBER 11, 2022

Regular

Clement V. Sommers Municipal Building

7:00 PM

910 Oceanport Way, Oceanport, NJ 07757

- I. **Call to Order:** Chairman Whitson called the meeting to order at 7:00 PM
- II. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by adequate and electronic notification on January 20, 2022 of this meeting and its location, date and time to the Asbury Park Press and Two River Times and by the posting of same on the municipal bulletin board and Borough's Web Site.
- III. **Flag Salute:** Chairman Whitson led attendees and members of the Board in the flag salute.
- IV. **Board Policy:** Chairman Whitson advised of the following Board policies: It is Board Policy that no application will be opened after 10:00 P.M.; no new testimony will be taken after 10:30 P.M., except at the discretion of the Board

V. **Roll Call:**

Attendee Name	Title	Status	Arrived
James Whitson	Chairman	Present	
John (Jack) Kahle	Vice Chairman	Present	
Patty Cooper	Mayor's Designee	Present	
Thomas Tvrdik	Class III	Present	
Joseph Foster	Environmental Commission Liaison	Absent	
Christopher Widdis C	Class IV	Present	
Robert Kleiberg	Class IV	Absent	
Darren Davis	Class IV	Present	
Michael Dailey	Class IV	Present	
Leslie B Widdis L	Alternate I	Present	
Jeanne Smith	Board Secretary	Present	
Kevin Kennedy	Board Attorney	Present	
William White	Board Engineer/Planner	Present	

VI. **Board Business:**

1. Report of Pending Applications: Ms. Smith advised that next meeting was October 25, 2022 and described the applications for 28 Revere Drive and continuation of 60 Werah Place.

VII. **Old Business:**

1. PB2022-18 Carchio, Kathleen
Motion to Carry Application to the October 25, 2022 meeting with no additional notice

RESULT:	ADOPTED [6 TO 0]
MOVER:	John (Jack) Kahle, Vice Chairman
SECONDER:	Patty Cooper, Mayor's Designee
AYES:	Whitson, Kahle, Cooper, Davis, Dailey, Widdis L
ABSTAIN:	Tvrdik, Widdis C
ABSENT:	Foster, Kleiberg

VIII. **New Business:**

1. PB2022-15 Sherman, Bradley & Joy
19 Main Street
Block 110, Lot 21
Expansion of existing non-conforming accessory structure for construction of a fireplace.

EXHIBITS:

A-1 Land Development Application

A-2 "Location Survey for: Bradley and Joy Sherman" prepared by Richard E. Stockton & Associates, Inc, dated February 17, 2022

- A-3 "Variance Plan for: Bradley & Joy Sherman" prepared by Richard E. Stockton & Associates, Inc, dated May 3, 2022.
- A-4 "Carriage House Fireplace Addition", 2 Sheets, prepared by Sherman Pierre Architects, dated February 17, 2022
- A-5 Notice of Appeal dated September 12, 2022
- A-6 Narrative of Development
- A-7 Colliers Engineering & Design Review Letter dated September 7, 2022
- A-8 1878 Wolverton Map
- A-9 1907 Sanborn Map
- A-10 Photographs, 4 Sheets, Historical Aerials from 1969 and 1970
- A-11 Zoning Officer Denial Letter, dated December 20, 2021

The following person(s) were sworn in: William White, Board Engineer/Planner

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4, A-5, A-6, A-7.

John Anderson, Applicant's Attorney, appearing submitted additional Exhibits which were described and marked as **Exhibits A-8, A-9 and A-10**.

Mr. Kennedy counselled the Board that the application included an appeal, a C variance and a D-use variance if determined it applies.

At such point that the Board finds that a use variance is determined necessary, the position for Mayor and Council liaison will exit.

Mr. Anderson described the property location, existing improvements – house built from 1876, accessory structure, the existing non-conforming side setback of 1.9' on the Oceanport Hook & Ladder side of the property, used for storage, a boat house, "man-cave" and used as an accessory to the main home. He described the Applicant's proposal to install a fireplace in the accessory structure to use for family gatherings and a place for him to do his writing (he is an author). They are appealing the Zoning Officer decision that the proposed use expands to a 2nd principal structure on the property, the structure has never been used as a dwelling unit, has not water service, no sewer service, no plumbing, no sleeping quarters, no restroom, no shower.

Bradley Sherman, 19 Main Street, was sworn in and provided testimony concerning his ownership, no changes will be made to the primary house, his historic knowledge of the property and its uses as a carriage house with the opening of Fort Monmouth.

Mr. Kennedy interrupted respectfully and provided the Board with additional background on what led the Applicant to the Board, the decision of the Zoning Officer concerning expansion of non-conforming use, the Board Engineer's review reserving that there was a possibility of "d" variance if both structures were being used as principals and the concern was for future owners that the site not be presented as having two principal dwellings.

Chairman Whitson invited questions from Mr. White and Board members

Mr. White expressed concern that there be something put in place to assure future use was limited to one principal structure. Mr. Kennedy offered a deed restriction perhaps. Mr. Anderson discussed with the Applicant what it would entail. Mr. Sherman stated he would want to discuss with his wife. There was lengthy discussion with the Applicant on whether a (c) or (d) variance was being sought. Mr. Sherman will step out and contact his wife.

At 7:34 PM, the Board took a 2-minute recess.

At 7:36 PM, the meeting resumed with all previous members present.

Mr. Anderson, after discussing with the owners, and if the Board approves, the Applicant would agree to any deed restriction that would ensure the 2nd structure would not become a dwelling unit that would be recorded with the Monmouth County Clerk and that it would be stipulated solely as an accessory structure, was not, had not and would not be used as a principal structure.

Mr. Anderson requested that the Zoning Officer denial letter be introduced as **Exhibit A-11**.

Board members asked questions about the limits of accessory structure, structure height, chimney being exempt.

Casey Sherman, Applicant's Architect, was sworn in and provided testimony concerning the dimensions and elevations of the accessory structure from the crown of road, no changes were proposed to the exterior of the structure, the chimney would be placed with a heart stone in front of the chimney, described the interior as having a concrete floor with some carpeting, exposed studs and shelving for storage; if a fire official required that the area be sheet rocked the Applicant was willing.

PUBLIC:

Chairman Whitson opened the meeting to the public for questions on this witness. As there was no one, Chairman Whitson closed that portion of the meeting.

PUBLIC:

Chairman Whitson opened the meeting to the public for comments on the application. As there was no one, Chairman Whitson closed that portion of the meeting.

Mr. Dailey made a motion to approve the application as presented with the condition of a deed restriction prohibiting two principal structure uses on the property which was seconded by Mr. Davis. Mr. Widdis requested that the approval also include limits on the impacts of lighting on the neighbors. All lighting will be directed downwards.

Motion to Approve with Conditions

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael Dailey, Class IV
SECONDER:	Darren Davis, Class IV
AYES:	Whitson, Kahle, Cooper, Tvrdik, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Foster, Kleiberg

2. PB2022-20 Manvan, LLC
190-192 Monmouth Blvd
Block 65, Lots 40 & 41
Minor Subdivision (Lot Line Adjustment) with variances for Lot width, Lot Area

EXHIBITS:

- A-1 Land Development Application
A-2 "Minor Subdivision Plan", prepared by Shore Point Engineering dated June 4, 2022
A-3 "Boundary and Topographic Survey, Tax Lots 40 and 41 Block 65", prepared by DPK Consulting, LLC dated April 5, 2022,
A-4 Colliers Engineering & Design Review Letter dated September 7, 2022

The following person(s) were sworn in: William White, Board Engineer/Planner

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked **Exhibits A-1, A-2, A-3, A-4**.

Mark Aikens, substituting for Dean Stamos, Attorney of Record, stated that the two applications tonight are related but owned by separate LLCs, a principle for Manvan LLC was present and came forward.

Paul Van Dyke, Member of Manvan LLC, was sworn in and testified as to the other members of the LLC. There were no conflicts with the Board.

Mr. Aikens summarized the application and stated he had two witness that will provide testimony for engineering and architecture.

The following professionals were sworn: Kevin Shelly, Professional Engineer and Nicholas Graviano, Professional Architect.

Mr. Shelly, presented his qualifications and was accepted as an expert in engineering. Mr. Shelly testified that the application would remove two existing dwellings from lots fronting on Monmouth Boulevard, lot line adjustments that creates two similar sized lots and would pull frontage from Monmouth Boulevard and front on Foggia Way. Referring to Exhibit A-2, further identified the existing structures and the proposal to construct two new dwellings; also would advance the purposes of planning by complying with the County master plan objective to remove curb cuts and driveway access.

Chairman Whitson invited questions from Mr. White and Board members

Mr. Tvrdik commented that the plan refers to the street as Maple Place, however it was renamed by the Mayor & Council as Foggia Way and suggested plans be corrected to reflect same. He also suggested that it be considered now setting requirements for fencing along Monmouth Blvd, the second frontage as well as any accessory structures that may come down the line. Mr. Aikens stated they didn't have any objections. Mr. Tvrdik also requested that the Applicant's be required to dedicated additional land for the widening of Foggia Way which had no objections.

Mr. Kahle asked questions about the proposed lot widths, any similar lots in the neighborhood.

Mr. Davis asked questions about the road widths referred to in Mr. White's review letter. Mr. Shelly testified that they would agree to the conditions that Mr. White requested, and agree to provide 4' dedication for Foggia Way, install curbing on the Foggia Way frontage.

Mr. Davis asked what about sidewalks. There was discussion about sidewalks usually being placed on one side of the street and which side of the street. Mr. Shelly advised that they would prefer to place the sidewalks in front of Lot 40.01 and 40.02 and also agree to provide street trees. Mr. Davis commented that because the one lot is a corner lot, he would like to see a 2nd entry on that side of the house as Monmouth Boulevard is the main thoroughfare. Mr. Shelly responded that they don't have architectural plans yet, but they would consider it. Primary entrance would face on Foggia Way and secondary entrance for architectural purposes would front on Monmouth Blvd. Mr. Davis also asked questions about drainage.

Mr. Dailey expressed concern that the houses look uniform in appearance. There was discussion on whether it was under Board jurisdiction as the application was only for lot creation.

Mr. Widdis asked about the driveway behind the lots. Mr. Shelly advised that it wasn't on their property so they had no ability to speak for that owner. Anything not on their property would continue as existing.

Mr. White asked where the utilities would connect. Mr. Shelly responded that there is more work to be done on that but would comply with any street opening permit requirements and pavement restoration. Mr. White commented that if the openings are lineal it would be good for both projects to work together as it sounds like they'll be redoing the roadway.

PUBLIC:

Chairman Whitson opened the meeting to the public for questions on this witness. As there was no one, Chairman Whitson closed that portion of the meeting.

Nicholas Graviano, Applicant's Professional Planner, provided his qualifications and was accepted as an expert by the Board.

Mr. Graviano provided testimony concerning the existing land features, the non-conformities of both lots, the larger lot has 2 detached accessory structures and an inground pool that straddles the shared lot line. The intent of the application is to create two new lots that are substantially conforming to the Borough's code and eliminate the number of non-conformities that exist; minimized lot widths are a result of the property configurations and it was his opinion that the property was uniquely shaped and meets the criteria for a c-1 and c-2 variances. The existing structures have several non-conformities and the new units would be substantially conforming and advances the municipal land use law with the provision of sidewalks, relocation of driveways off of Monmouth Blvd and the creation of sufficient air, space and light as well as good civic design. The application seeks two variances for lot width and lot area which could be granted variance relief without substantial impairment to the Borough or its zoning ordinance. The new development would also enhance and promote the character of the residential neighborhood by creating larger setbacks to the structures.

Chairman Whitson invited questions from Mr. White and Board members

Mr. White asked for clarification for the record that the 4' roadway dedication would reduce the lot area further which was confirmed by Mr. Graviano.

Mr. Widdis asked about how the development would be tied into any proposed development in the rear and access to schools for walking students.

Mr. Dailey asked if it would require County approval. Mr. Graviano responded it would, except this lot is exempt as a 2-lot subdivision as long as it meets the County standards for turnaround driveways. There was additional discussion on the need for sidewalks on Monmouth Blvd., that the Martelli development next door did not have sidewalks.

Mr. Kahle asked questions about how the new rear property line would cause the adjacent house to have a 1' setback and concern that the owner of that property have sufficient room to maintenance that side of his property. Ms. Barham-Widdis commented that she didn't think the Board could make this Applicant address that with the neighbor, either way it was an existing non-conformity. Mr. Aiken suggested a construction easement that would sunset after that structure is removed.

Mr. Tvrdek asked if the sidewalks would be constructed within the 4' dedication. Mr. Shelly responded that it would be constructed within the 50' road width. Mr. White added that it would be set 4' off of edge of pavement with a grass strip for the street trees.

PUBLIC:

Chairman Whitson opened the meeting to the public for questions of this witness only.

Mike MacStudy, 110 Oceanport Ave, asked about the sewer connections and would they be bringing it further up Foggia Way. Mr. White responded that was under the jurisdiction of the sewer authority and not the Borough.

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

PUBLIC:

Chairman Whitson opened the meeting to the public for comments on the application. As there was no one, Chairman Whitson closed that portion of the meeting.

Mr. Tvrdek referring to the early comment about the fencing and accessory structures, asked if that was done and had the Applicant agreed to. Mr. Aikens stated the Applicant had agreed to a 54" Jarith fence with open slatting or equivalent, will also stipulate that accessory structures or utilities would comply with the proper setback.

Mr. Davis asked about the statement concerning their interest in the back property and why there hadn't been one master plan for the ' Parcels. Mr. Van Dyke testified that he had nothing to do with the back property.

Ms. Cooper made a motion to approve the application with all the conditions discussed and agreed to which was seconded by Mr. Tvrdek who also commented that the application was for 2 non-conforming lots, not a single lot, it was a better application than exists by moving the lot lines.

Motion to Approve with Conditions including but not limited to fencing, roadway dedication, curbing, limit on accessory structures, dedication of 4' to expand roadway width, new lot 40.01 would have a secondary architectural entrance fronting on Monmouth Boulevard and a construction easement to provide for the neighbor to perform outside maintenance, sidewalks on Foggia Way and Monmouth Boulevard.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Thomas Tvrdek, Class III
AYES:	Whitson, Kahle, Cooper, Tvrdek, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Foster, Kleiberg

3. PB2022-21 196 Monmouth Blvd. LLC
196 Monmouth Blvd
Block 65, Lot 37
Minor Subdivision

EXHIBITS:

A-1 Land Development Application

- A-2 "Minor Subdivision Plan, 196 Monmouth Boulevard", prepared by Shore Point Engineering dated June 4, 2022
A-3 "Boundary and Topographic Survey, Tax Lot 37, Block 65", prepared by DPK Consulting, LLC dated May 31, 2022,
A-4 Colliers Engineering & Design Review Letter dated September 7, 2022

The following person(s) were sworn in: William White, Board Engineer/Planner

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked **Exhibits A-1, A-2, A-3, A-4**.

Mark Aikens, substituting for Dean Stamos, Attorney of Record, appearing on behalf of 196 Monmouth Blvd, LLC, a separate and distinct different entity, described the application that eliminates the prior business non-conforming use for the zone and would create 2 fully conforming lots.

Mr. Shelly, Applicant's Engineer, was sworn in and accepted as an expert in engineering. Mr. Shelly testified that the application would subdivide the existing single lot containing a business use, greenhouses and parking area and create two new equally sized lots and construct 2 single-family dwellings. Both lots would be fully conforming with the bulk requirements. As requested in Mr. White's review letter, the Applicant would agree to dedicate 3' for the widening of Foggia Way as well as curbing, will revise plans to add any additional utilities, will provide shade trees per the ordinance on both Foggia Way and Monmouth Blvd.

Chairman Whitson asked for clarification, there are no variances or design waivers being sought, only the minor subdivision which Mr. Aikens affirmed.

Chairman Whitson invited questions from Mr. White and Board members.

Mr. Tvrdik asked if the sidewalk would also be extended along Monmouth Blvd. Mr. Shelly testified that the Applicant would stipulate to the match the same condition as granted the project across the street. The Applicant would also stipulate to provide a secondary entrance on Monmouth Blvd.

Mr. Dailey asked if any members of the LLC were part of the project for the back property.

Paul Van Dyke was sworn in and testified that there was no one present that was a member of the owner, 196 Monmouth Blvd, LLC, under ownership.

Mr. Widdis asked questions about the area of overlap – Mr. Shelley advised all encroachments would be removed including greenhouses.

PUBLIC:

Chairman Whitson opened the meeting to the public for questions on this witness.

Maryanne Paolise, Monmouth Blvd., asked questions about elevations which Mr. Shelly responded to referring to the plan exhibit and describing the grading that would ensure all runoff was directed to Monmouth Boulevard and not to any adjacent properties.

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

PUBLIC:

Chairman Whitson opened the meeting to the public for comments on the application. As there was no one, Chairman Whitson closed that portion of the meeting.

Motion to Approve with Conditions including but not limited to compliance with standard requirements, affordable housing requirements, outside approvals, any changes would need to return to the Board, 3' right of way dedication to Borough, demolition and elimination of all encroachments to occur before perfection of subdivision, road opening permits, shade tree ordinance, fencing, curbing and sidewalks, secondary frontage on Monmouth Blvd.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Vice Chairman
AYES:	Whitson, Kahle, Cooper, Tvrdik, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Foster, Kleiberg

IX. Petitions from the Public: Chairman Whitson opened the meeting to Petitions from the Public. As no one from the public wished to be heard, Chairman Whitson closed that portion of the meeting.

X. Adjournment: As there was no further business, the meeting was adjourned at 9:10 pm on a motion by Mr. Tvrdik which was seconded by Mr. Davis and approved by the Board.

Respectfully submitted,
Jeanne Smith
Board Secretary