BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● SEPTEMBER 25, 2018

Regular	**Maple Place School**	**12:00 AM**

2 Maple Place, Oceanport, NJ 07757

I. **Call to Order:** Chairman Widdis called the meeting to order at 7:30 p.m.

II. **Open Public Meetings Statement:** Chairman Widdis stated "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 16, 2018 and by the posting of same on the municipal bulletin board and Borough Web Site."

III. **Flag Salute:** Chairman Widdis led the members of the Board in the flag salute.

IV. **Roll Call:**

Attendee Name	Title	Status	Arrived
Christopher Widdis	Chairman	Present	
James Whitson	Vice Chairman	Present	
William Sullivan	Mayor's Designee	Present	
Robert Proto	Council Liaison	Absent	
Joseph Foster	Environmental Commision Liaison	Present	
John (Jack) Kahle	Class IV	Present	
MIchael Savarese	Class IV	Present	
Robert Kleiberg	Class IV	Present	
Daphne Halpern	Class IV	Present	
Thomas Tvrdik	Alternate I	Present	
Michael O'Brien	Alternate II	Present	
Jeanne Smith	Board Secretary	Present	
William White	Board Engineer/Planner	Present	
Kevin Kennedy	Board Attorney	Present	

V. **Board Business:**

1. Approval of Minutes, August 14, 2018

Chairman Widdis asked for a motion to approve the August 14, 2018 minutes. Mr. Whitson requested a correction to the arrival time for Mr. O'Brien and made a motion to approve the minutes as corrected which was seconded by Mr. Foster and approved by the eligible Board Members.

2. Mandatory Stormwater Mgmt Training Status

Ms. Smith reminded Board members to complete the mandatory training on Stormwater Management.

VI. **Old Business:**

A. PB2017-02.1 93 Main St, Block 110, Lot 6 **CARRIED from Sept. 11, 2018:**

Removal of existing garage, attached shed and (1) of the 2-family units; Proposed improvements are a new attached 2-story dwelling unit, new 2-car detached garage and (4) parking spaces seeking Use and Bulk variance relief:

"d(2)" Use Variance - expansion of non-conforming two-family use
"d(5)" variance - density of 6.5 dwelling units/acre proposed, 1.5 dwelling units/acre permitted
Minimum Lot Area - 30,000 SF required, 13,491 SF pre-existing
Minimum Lot Width - 150' required, 90 feet pre-existing
Minimum Lot Depth - 200' required, 149.90' pre-existing
Maximum Impervious Coverage - 25% max permitted, 32.5% existing, 43.9% proposed
Minimum
Habitable Floor Area/Family - 1-1/2 story structure
Minimum Habitable Floor Area/Family - 2-story structure

Exhibits:
A-7 Certificate of Occupancy for 93 Main St., dated 4/13/07
A-8 Property Tax card for 93 Main St., dated 11/3/05
A-9 Tax Map indicating location of property, highlighting existing zoning
A-10 Revised Architectural drawing, dated 9/7/18, prepared by Passman Ercolino PC (Sheet A1)

Chairman Widdis recused himself from the application due to a personal conflict. Vice Chairman Whitson will preside. Mr. Sullivan, as Mayor's Designee, recused himself from the matter which involved a D type variance heard only by members designated for board of adjustment type applications.

Robert Witek, Esq. appeared on behalf of the Applicant. He provided a recap of the previous meeting and the Board's concerns. Allison Coffin, Applicant's Planner, remained under oath. Mr. Witek elicited testimony from Ms. Coffin regarding information obtained through an OPRA request, including Exhibits **A-7** and **A-8,** which referred to the property as 2 units. Mr. Witek also introduced A-9. Ms. Coffiin testified that **A-9** depicts the subject site, neighboring properties and their respective zoning. The property is the only R-1 zone in that area. Ms. Coffin discussed the redevelopment plan of the former Ft. Monmouth, which is adjacent to the Applicant's property. She described the requirements for "d" relief, positive criteria, such as historic use as a 2 family and unique location, and there is no significant detriment to the 2 family use proposed.
Mr. Kahle asked why there was only 1 tax card from 2005. Mr. Witek replied that that tax card was the only one found. Mr. Kahle asked about the proposal for single family lots on the adjacent former Fort property. Vice Chairman Whitson asked for the density of those lots. Ms. Coffin stated the lots appear to be half the size of the Applicant's site. Mr. Foster noted that a CO normally indicates whether there are tenants. Mr. Witek agreed that it is customary for a landlord to provide registration, but there was nothing else in the record. Mr. Kahle asked if the Building Dept. records were reviewed for fire inspections. Mr. Witek replied they were not. Mr. Savarese noted that the 2005 CO was a residency CO, which is for the purpose of registering a tenant or the owner into the property. Mr. Kleiberg stated that the 2005 property tax card lists 2 baths, which is incorrect since one is only a half-bath.

Vice Chairman Whitson then opened the meeting to the public for questions of this witness only. As no one wished to be heard, Vice Chairman Whitson closed that portion of the meeting.

Peter Brown, Applicant, remained under oath. He testified that he received all copies of COs, which showed rentals and sales. The 2007 CO was clearly for a tenancy. He also reviewed log books, which indicated 3 COs since the 1990. There were no notes regarding use as a single unit. Mr. Brown clarified that the 2nd, smaller unit of the 2 units had a shower, sink and toilet when he purchased the property. Mr. Kleiberg had questions regarding the oil tank, electric meters, water heaters and other issues. Mr. Brown advised the oil tank was removed at the time he purchased the property. Mr. Brown stated he built a mother/daughter in 1996 and obtained all required permits. He stated the utility companies would not have allowed 2 meters unless it was a 2 family home. He believed it was recognized as a 2 family. Mr. Tvrdik asked if Mr. Brown had spoken with Housing Inspector, Alan Parker, which Mr. Brown replied he did. Mr. Parker confirmed his signature on the CO. Ms. Halpern asked Mr. Kennedy about comments on the tax card that stated the document's information was provided by the owner. Mr. Kennedy advised he would have to speak to the Assessor for information.

PUBLIC:
Vice Chairman Whitson then opened the meeting to the public for questions of this witness only. As no one wished to be heard, Vice Chairman Whitson closed that portion of the meeting.

Mr. Foster asked Mr. Brown if he applied for a CO when he purchased the property, which Mr. Brown did not. Mr. Foster stated that normally, if a CO is applied for, a list of deficiencies is provided. He suggest applying for a CO may address the issue of whether the property is a 2 family or not. Mr. Brown advised that the property was in terrible condition and didn't believe it was possible to get a CO. Mr. Kleiberg asked if the utility companies had been contacted regarding the number of meters. Mr. Brown testified that he found that the 2nd electric meter was installed in 1969, the gas meter was installed in 2007. Neither utility would provide documentation because Mr. Brown was not the owner at the time.

Mr. Witek introduced Anthony Ercolino, Applicant's Architect, who remained under oath. Mr. Ercolino introduced Exhibit **A-10**. Mr. Ercolino described the revisions, which were to remove the proposed garage and driveway and use the existing garage as a shed. This reduces the lot coverage to 34.8% from the original proposal of 43.9%. Mr. Savarese noted the existing garage was in disrepair and suggested a pre-fab which could reduce the impervious coverage. Ms. Halpern asked Mr. Witek about the chain link fence with barbed wire. Mr. Witek stated that was under the domain of FMERA and that the property is an anomaly because it is surrounded by the former Fort.

William White, Board Planner/Engineer, remained under oath. Mr. Kahle asked Mr. White for his opinion on the 9' wide driveway. Mr. White noted that it was narrow, compared to normal 12' width. Mr. Ercolino stated the driveway could be widened, but would then increase impervious coverage. There was discussion regarding typical driveway width. Mr. Foster asked for clarification regarding parking and if it was factored into the impervious coverage. Mr. Ercolino confirmed that it was. Mr. Kahle asked if the proposed parking complied with the Borough's requirements, and Mr. White confirmed it did.

PUBLIC:
Vice Chairman Whitson opened the meeting to the public for questions of this witness only. As no one from the public wished to be heard, Vice Chairman Whitson closed that portion of the meeting.

PUBLIC:

Vice Chairman Whitson then opened the meeting to the public for comments.

Ron Kirk, 14 Center St., appeared and was sworn. He stated the application does not advance the principles of planning and in fact, diminishes light, air and open space on an undersized lot. The lot is not particularly fitted nor suited for a 2 family dwelling. Mr. Kirk stated the Applicant has not established that the use is 2 family from tax cards nor a CO. No testimony was provided that the owner attempted to obtain any available lands to make the property conforming. Mr. Kirk stated the application is based on "greed, not need".

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

Vice Chairman Whitson expressed concern that the Board is being asked to grant 6 variances and does not see a hardship. He is open to the prospect of a 2 family, but does not see any justification for expansion. Mr. Kleiberg was not in favor of the property being considered a 2 family or a mother/daughter. Mr. Foster stated that because of the 6 variances, he would normally be opposed to the Application but the lot is a unique location with relation to the former Fort and is identified as an R-5.

Mr. Kennedy outlined the procedure for 2 separate motions: did the Applicant prove that the property contains a lawful pre-existing 2 family home; and is the Board inclined to grant the Applicant's request to demolish one unit and reconstruct the unit as a 2 family home.

1. Motion - Applicant did not prove that the property was a lawful, pre-existing 2 family residence

Mr. Savarese commented on the motion and stated that Board members believe that the request for 6 variances is a lot. He suggested that if they can consider this a 2 family residence, the solution may be to go back and redesign a new 2 family that complies with all setback requirements. Mr. Kennedy advised that the Board needs to make a determination as to whether the property is a lawful 2 family home first.

RESULT:	**DEFEATED [2 TO 5]**
MOVER:	Robert Kleiberg, Class IV
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Kahle, Kleiberg
NAYS:	Whitson, Foster, Savarese, Halpern, Tvrdik
ABSENT:	Proto
INELIGIBLE:	O'Brien
RECUSED:	Widdis, Sullivan

2. Motion - Property be considered as a pre-existing, non-conforming 2 family residence

RESULT:	**ADOPTED [5 TO 0]**
MOVER:	MIchael Savarese, Class IV
SECONDER:	Thomas Tvrdik, Alternate I
AYES:	Whitson, Foster, Savarese, Halpern, Tvrdik
ABSTAIN:	Kahle, Kleiberg
ABSENT:	Proto
INELIGIBLE:	Sullivan, O'Brien
RECUSED:	Widdis

Mr. Witek requested the Application be carried in order to allow time for revised plans that would address the concerns of the Board. Vice Chairman Whitson stated the Application will be carried to November 13th, 2018, with no further notice required.

Chairman Widdis returned to the meeting at 8:40 pm and advised the Board would take a 5 minute recess.

VII. New Business:

A. PB2018-05 61 Werah Place, Block 57, Lot 13:

Demolish existing and construct new 1-1/2 story garage seeking variance relief for:

Minimum Lot Width
Minimum Side Yard Setback - Principal Structure
Minimum Side Yard Setback - Accessory Structure
Maximum Height - Accessory Structure
Maximum Building Coverage - Accessory Structure
Maximum Impervious Coverage

Chairman Widdis advised the public that this application had not completed its notice and would be rescheduled for a future date.

B. PB2018-06 Tecumseh Ave, Block 8, Lot 18:

Construct new two-story single-family dwelling with attached front entry two-car garage seeking variance relief for:

Minimum Lot Area: 12,000 square feet required, 10,000 square feet existing/proposed
Minimum Lot Width: 120 feet required, 100 feet existing/proposed.

EXHIBITS

A-1 Land Use Board Application dated Aug. 10, 2018
A-2 Zoning Denial dated June 4th, 2018
A-3 Architectural plans prepared by by Dominic Macaluso, dated July 16, 2018 (6 sheets)
A-4 Survey prepared by Key Engineering Enterprises, dated March 11, 2018
A-5 Plot Plan prepared by Key Engineering Enterprises, dated March 11, 2018
A-6 Maser Consulting review memorandum, dated Aug. 28, 2018
A-7 Communication from Key Engineering Enterprises, dated Sept. 21, 2018
A-8 Plot Plan to demonstrate setbacks

William White, Board Planner/Engineer was sworn. Mr. Kennedy entered Exhibits **A-1, A-2, A-3, A-4, A-5 and A-6** into evidence. Mr. Kennedy stated that service had been reviewed, was in order and the Board accepted jurisdiction.

The following people were sworn: Matthew Rosenbloom, Applicant, Alix Detullio, Applicant's wife. Mr. Rosenbloom testified that the location is currently a vacant, undersized lot with no improvements. Mr. Rosenbloom stated that they live down the street from the property, are planning on increasing their family's size and are seeking to build a 3658 sq. ft. two story home, 4/5 bedrooms, 4.5 baths with a 2 car garage. Mr. White explained the variances required: lot area, lot width, and average front yard setback. Mr. Kennedy introduced **A-7 and A-8** into evidence. There was discussion regarding the proposed deck. Mr. White explained the setback requirements for an accessory structure, since the proposed deck is not attached to the proposed house. Mr. White testified about the size of adjoining lots and the Applicant's inability to obtain land to eliminate the need for lot area and lot size variances. Mr. White reviewed the grading plan, discussed it with the Applicant's Engineer and found no major flaws. Mr. Savarese asked for clarification regarding the interior attic height. Mr. Rosenbloom replied it was 6 ft. 11 in. Chairman Widdis noted the house was large for an undersized lot. Mr. White stated that the house was well within the 25 ft. maximum for building coverage.

Chairman Widdis opened the meeting to the public for questions of the Applicant.

William Donald, 82 Iroquois Ave., was sworn and expressed concern regarding drainage. He has a large problem with drainage in his southwest corner, to the rear of the Applicant. He stated there's a 5 ft. drop between the rear of these two properties. He explained how the Borough required his builder to construct an inlet with an easement to the street to pipe out water to the storm drain in the street. Mr. White concurred with the 5 ft drop off and suggested piping the roof leaders from the rear of the house to the front to redirect the runoff. He also suggested the Applicant's Engineer address the drainage problems. Mr. Donald explained how he installed perforated pipe 20 years ago, which helped previously, but has become clogged. Chairman Widdis noted this is an engineering issue to be dealt with.

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

Mr. Kennedy stated the Application is an isolated undersized lot case. There was an Ocean County lawsuit dealing with this specific issue, and Mr. Kennedy read pertinent portions of the Judge's decision into the record.

Chairman Widdis then opened the meeting to the public for comments. As no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

1. Motion - Application be approved with variances for minimum lot area, minimum lot width, front yard average setback and with a condition that a suitable drainage plan be submitted to the Borough Engineer

RESULT:	**ADOPTED [9 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Sullivan, Foster, Kahle, Savarese, Kleiberg, Halpern, Tvrdik
ABSENT:	Proto
INELIGIBLE:	O'Brien

VIII. Resolutions - None

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

X. Adjournment: As there was no further business, the meeting was adjourned at 9:20 **p.**m. on a motion by Mr. Whitson which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary