BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● SEPTEMBER 14, 2021

Regular | **Clement V. Sommers Municipal Building** | **7:00 PM**

910 Oceanport Way, Oceanport, NJ 07757

I. Call to Order: Chairman Widdis called the meeting to order at 7:00 p.m.

II. Board Policy: Chairman Widdis advised the public of the below Board policies: •It is Board Policy that no application will be opened after 9:30 P.M. •No new testimony will be taken after 10:00 P.M., except at the discretion of the Board.

III. Open Public Meetings Statement: This meeting complies with the Open Public Meetings Act by adequate and electronic notification on June 29, 2021 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.

IV. Flag Salute: Chairman Widdis led attendees and Board members in the flag salute.

V. Roll Call:

Attendee Name	Title	Status	Arrived
Christopher Widdis	Chairman	Present	
James Whitson	Vice Chairman	Present	
Patty Cooper	Mayor's Designee	Late	7:54 PM
Thomas Tvrdik	Class III	Late	7:07 PM
Joseph Foster	Environmental Committee Liaison	Present	
John (Jack) Kahle	Class IV	Absent	
Michael Savarese	Class IV	Absent	
Robert Kleiberg	Class IV	Present	
Darren Davis	Class IV	Present	
Michael Dailey	Alternate I	Absent	
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 of upcoming applications for the September 28th and October meetings including 38 Morris Place, 66 Shrewsbury Ave, Warehouse Parcel and Barker's Circle on the Fort.

2. Referral from Governing Body - Review for Consistency with Master Plan - Ordinance #1039

Ms. Smith briefed the Board on the purpose of the ordinance and the Board's role; the ordinance does not substantially change any zone, bulk requirement but provides clarification and instruction for completing an established process for certificates of non-conformity. Board members discussed and agreed it was administrative in nature and was found consistent with the Master Plan.

Councilman Tvrdik entered the meeting at 7:07 PM

3. PR-21-27 Resolution for Determination of Consistency with Master Plan - Ordinance #1044

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Foster, Kleiberg, Davis
ABSENT:	Cooper, Tvrdik, Kahle, Savarese, Dailey

Ms. Smith next presented an administrative item to the Board seeking clarification concerning the new ordinance and the added language for expiration of variances. Two inquiries received in the past week that have variance approvals – 1997 and 2002. The question is whether those variances are still valid in light of the ordinance change. Chairman Widdis asked Mr. Kennedy for his thoughts. Mr. Kennedy commented that proceeding further, resolutions will have added language to identify the expiration terms; also to consider are the changes in laws, any change in health & safety, stormwater regulations, etc. that may have been approvable back then but wouldn't be improved today; existing neighbors weren't necessarily the same as the ones notified for the original approval. Discussion ensued on the specifics of the two sites at present, the purpose of the expiration language added by the new ordinance and that the intent was to be sure that approvals didn't outdate important new regulations. Consensus by the Board was that prior approvals beyond two years be considered expired and would need to return to the Board. Mr. Kennedy advised that he would work with Ms. Smith to develop policy language. Chairman Widdis asked that it be circulated to the Board for review. The language would be incorporated into the standard resolution language.

VII. Approval of Minutes:

1. Planning/Zoning Board - Regular - Aug 10, 2021 7:00 PM

RESULT:	**ACCEPTED [5 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Whitson, Tvrdik, Foster, Kleiberg, Davis
ABSENT:	Cooper, Kahle, Savarese, Dailey
INELIGIBLE:	Widdis

2. Planning/Zoning Board - Regular - Dec 22, 2020 7:30 PM

RESULT:	**TABLED [UNANIMOUS]**
MOVER:	Christopher Widdis, Chairman
SECONDER:	James Whitson, Vice Chairman
AYES:	Widdis, Whitson, Tvrdik, Foster, Kleiberg, Davis
ABSENT:	Cooper, Kahle, Savarese, Dailey

VIII. New Business:

1. PB2021-12 Carpentino, Robert

4 Haskell Way
Block 121.02, Lot 2
Bulk variance(s) for installation of new patio

EXHIBITS
A-1 Land Development Application
A-2 Zoning Denial Letter
A-3 Plan entitled "Location Survey," 1 Sheet, prepared by Land Control Services, LLC, dated September 1, 2020
A-4 Plans entitled "Carpenito Residence", 1 Sheet, prepared by Michael Savarese Associates, last revised August 9, 2021
A-5 Photograph of Site
A-6 Colliers Engineering & Design Review letter, dated August 19, 2021
A-7 Series of Three Photographs of Rear Yard

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice and provided the public with options to participate. While waiting for the public , Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4, A-5, A-6. 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.

Rosa Carpenito, Owner/Applicant, was sworn in and described for the Board her application to extend her backyard patio that needs a variance. She takes care of her grandson who has temper tantrums when he walks on the grass so she wanted to extend it. She approached the President of the association who advised that a fence permit and an electrical permit for the hot tub and stay within the setbacks. She worked with her landscape contractor and didn't know she needed permits for that.

Dale Loing, 91 Belmar Blvd, Farmingdale, Applicant Contractor, was sworn in and described the existing 10'x10' concrete slab looking to expand to 13' x 44' paver patio; does not impede water flow – there is an existing swale on one side and storm drain on the other side with the setback on the western side being more than 10'; lot coverage is under for impervious.

Mr. White asked if the 13'x44' included the retaining wall and was told yes, and also the slab for the jacuzzi.

Mr. Davis commented looking at the Site Plan that none of the coverages matched up to the numbers and doesn't seem to include jacuzzi. Mr. Loing answered that the jacuzzi was located on top of the 13'x44' and was not in additional.

Questions were asked about the plans and the calculations referenced on the plan did not appear correct.

Mr. White stated he scaled off the building and it looks like its 14'x44' for a total of 1616 total.

Mr. Davis commented that the letter submitted states that the project won't affect the swale and was he an engineer that could certify that and was told no.

Mr. White commented that the site is single family residential and exempt from stormwater requirements and being familiar with the site doesn't believe the proposed improvements would block the flow as the swale was right along the retaining wall. Mr. White added that the reason project was before the Board was because the approval for the Jockey Club development in 2005, prohibited accessory structures (a hot tub proposed) and limited projections to 10' from the dwelling (patio 14' beyond structure).

Chairman Widdis asked the Board if they were comfortable with proceeding with Board members wanting confirmation that the numbers were correct on the plan and they would need to come back. Mr. Loing asked which numbers were being referred to and was told length and width of patio. Chairman Widdis asked Mr. White if it impacted lot coverage. Mr. White pointed out that the additional amounted to 10-20 s.f. that he didn't believe would impact significantly on coverage.

Chairman Widdis commented that the plans should also be updated to show the lot coverage. There was additional discussion on what should be shown on the plans.

Mr. Loing asked if it would suffice if they moved it in including the wall to 13'. Mr. White quick calculation estimated it at 43.4%. There was discussion amongst some of the Board as to whether to proceed and subject it to submittal of updated plan.

Mr. Whitson commented he would like to know the number is right. Councilman Tvrdik agreed.

Chairman Widdis advised the Applicant that it would be best if they would return with updated plans. Mr. Kennedy added that the Board was looking to assist so that when it gets to the construction department if the numbers are wrong the Applicant wouldn't need to come back.

The Applicant agreed that the plans could be revised in time to return for the next meeting and asked to be carried.

Motion to Carry Application to September 28, 2021 with no further notice required

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Thomas Tvrdik, Class III
AYES:	Widdis, Whitson, Tvrdik, Foster, Kleiberg, Davis
ABSENT:	Cooper, Kahle, Savarese, Dailey

2. PB2021-15 Gomes, Bryan

38 Morris Place
Block 61, Lot 13
Bulk variance(s) for construction of new home

EXHIBITS:
A-1 Land Development Application
A-2 Plans entitled "Boundary and Topographic Survey," prepared by Insite Surveying, LLC, last revised December 12, 2020, (1) sheet.
A-3 Plans entitled "Plot Plan," 4 Sheets, prepared by Insite Engineering, LLC, last revised June 4, 2021
A-4 Plans entitled "38 Morris Place, Residential Alteration," 7 Sheets, prepared by Monmouth Ocean Design Experts, last revised June 8, 2021.
A-5 Colliers Engineering & Design Review letter dated August 6, 2021

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice and provided the public with options to participate. While waiting for the public to respond, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4, 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.

Bryan Gomes and Rose Parker, Owner/Applicants, were sworn in.

Councilman Tvrdik disclosed that his grandparents lived within the 200' of the site but did not feel there was a conflict.

Ms. Parker described the application to the Board for a single family home that was 3-stories tall because they are required to raise as it is in a flood zone and the existing home was built more or less than a 100 years ago. They are seeking four variances for minimum lot width of 90' where 120' required – a pre-existing condition before they purchased the lot which was subdivided as a flag lot; there are 2 residential structures neighboring so they can't purchase additional land to comply; maximum building height of 35' with 35.838' proposed which they worked on with the design architects on how to provide more than 2 bedrooms for their family and future children and the architect advised that any lower would make the house unsightly; minimum front set back 26.64' proposed where 30' required which is because they are reusing the existing foundation to qualify for the construction loan and the lot is also restricted by a sewer easement; average front setback of 108 where 26.68 proposed – they are unable to move it back further due to the sewer easement. The project also includes a proposed pool that meets the regulations that they plan to construct in the future. It's location is limited due to the lot's restrictions.

Chairman Widdis asked the Applicant to discuss the sewer easement and the width of that.

Ms. Smith advised that Ms. Cooper entered the meeting at 7:54 PM

Ms. Parker testified that the sewer easement runs through the property beginning along the water and then cuts through the length of the property; does not encroach on the front square near the street where the house would be located. They had environmental studies done with InSite Engineering to be sure they could build there before they purchased it.

Mr. Whitson asked Mr. White if there was any concern for the pool due to the water table. Mr. White commented that it was more a construction issue. Mr. Foster commented that there could be a problem with a pool and referenced another local site but as long as they've looked at it already. There was discussion about the size of the pool and the coverage.

Ms. Parker and Mr. Gomes testified as to the house details, dimensions, floor areas.

Chairman Widdis asked for questions from Mr. White and the Board.

Mr. White reviewed the variances being sought with 3 of the variances being existing and not curable; the 4th variance for height could be cured by reducing the ceiling height on one of the floors down from 10'.

Mr. Davis commented on the requirements for 3-stories and fire rating and if the applicant were to reduce it they would eliminate the need for fire sprinkler system.

Ms. Parker responded that she had spoken with her professionals and they could adjust the ceiling heights in order to bring the height under and eliminate the variance. There was additional discussion regarding the floor height of the garage and its impacts on the # of stories.

Mr. White's last comment was to increase the size of the drainage pipe to an 8" minimum around the pool. The Applicant stated they were fine with those changes.

Mr. Kleiberg asked questions about fence around pool.

Mr. Foster asked about the height of the house and its reference to the crown of the road and the existing foundation. Ms. Parker advised that since they were revising the plans to reduce the height to comply and would clarify that.

Councilman Tvrdik commented that the pool equipment not shown on the plan be installed compliant and elevated for the flood zone and welcomed them to the neighborhood.

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

Malsert Liebler, 36 Morris Place, asked questions about the drainage for the pool and expressed concern for stormwater runoff onto her yard; existing drain line along common property line and point of discharge that flowed at rear of house and could the drain size be increased or additional inlets for heavy rains as it doesn't handle the existing drainage. Ms. Parker responded that they spoke with their engineer about the drainage. Mr. White commented that another inlet could be up near the driveway for a total of 3 inlets on that side of the property and the water to be piped out the back of the lot. A grading plan is required prior to any permits issued.
Mr. Davis suggested Belgian block along the driveway and use it to direct water flow to the inlet. Ms. Parker responded that they do plan to do a drainage system that addresses that.
Ms. Liebler asked about the discharge pipe on the property that was suggested to discharge deeper back onto the property – expressed concern of overflow as its adjacent to her property. Mr. White advised that it would stop at the sewer easement and didn't involve a sump pump or anything powered, its called a sump condition so no need for concern of failure of electrical.
Ms. Liebler asked was there a plan for landscaping. Mr. Gomes answered that they haven't addressed it yet depending on the pool and what the town requires. Ms. Liebler asked does the town require a certain percentage of landscaping. Mr. White answered no, there was no requirement.

Ken Koenig, 40 Morris Place, neighbor on other side, said he was happy to see someone move in and build something there. He asked questions about the drainage as the subject property was same height as his and if there was any fill put in it would come onto his property. The natural drainage across his rear yard is to the back corner which doesn't drain due to flatness and what could be done. Mr. White reviewed the spot grades on the plan and it appears to create a small swale there. Mr. Koenig expressed concern that if the swale doesn't continue all the way to the river then the flooding has no where to go. Mr. White advised that its restricted by the wetlands buffer area and the Applicant has done something to address it but again, are limited.
Mr. Koenig asked that it be watched that the land not be raised more than there now so it doesn't affect his property.
Mr. Whitson commented that they can request the Applicant to make it better but they can't compel them to do things they can't do.
Mr. Davis reiterated that he thought the board should ask the Applicant if willing to install the Belgian block along driveway and direct the water flow to the inlet – or a curb of some sort. Mr. Davis stated his concern with the existing drainage on the other side and that something should be required to address that.

Mr. Koenig clarified that he's not looking for the Applicant to *fix* the problem, just not make it worse.

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

Mr. Davis asked if the Applicant and the Board were agreeable to some type of curbing – Board said yes.
Mr. Davis also asked if the Applicant would consider landscape buffering of the pool which the Applicant agreed to.
Councilman Tvrdik asked for clarification the Applicant has agreed to change the height and eliminate that variance and was told yes.

PUBLIC: Chairman Widdis opened the hearing to comments from the public on the application.

Ms. Liebler commented that they are excited to see the project come to the neighborhood and everyone wants to help and just better to address everything before building starts.

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

Mr. Davis made a motion to approve the application based on elimination of the height variance, buffering on both sides of the property with trees, upsize the system to an enlarged outlet and add another drain, separate outlet for downspouts and install surface drain to handle excess from the pool and add Belgian or concrete curb along driveway to direct water runoff to drain in corner and drainage installed prior to pool construction.

Motion to Approve with Conditions

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Darren Davis, Class IV
SECONDER:	Patty Cooper, Mayor's Designee
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kleiberg, Davis
ABSENT:	Kahle, Savarese, Dailey

IX. **Executive Session:** At 8:47 PM Councilman Tvrdik made a motion to adopt the resolution to enter Executive Session which was seconded by Mr. Whitson and received the following roll call.

1. PR-21-26 Resolution authorizing an Executive Session for Potential Litigation.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Thomas Tvrdik, Class III
SECONDER:	James Whitson, Vice Chairman
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kleiberg, Davis
ABSENT:	Kahle, Savarese, Dailey

At 9:02 pm, the Board returned from Executive Session and the regular meeting was reopened on a motion by Councilman Tvrdik and seconded by Ms. Cooper and approved by the Board.

X. **Old Business:**

1. PB2020-01 Sempkowski, Anthony
74 Cayuga Ave
Block 27, Lot 9
CARRIED from August 10, 2021

Mr. Kennedy advised of communication from the Attorney and ultimately a letter of withdrawal with the intent to re-apply in 45 days.

Motion to Accept withdrawal of Application by Applicant

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kleiberg, Davis
ABSENT:	Kahle, Savarese, Dailey

2. PR-21-28 Resolution dismissing without prejudice Sempkowski application – As the resolution was not distributed in advance, Mr. Kennedy read the resolution in full. Mr. Whitson asked that language be added concerning the electrical. Mr. Davis requested that language include the HVAC equipment

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kleiberg, Davis
ABSENT:	Kahle, Savarese, Dailey

Councilman Tvrdik recused himself from the next matter and exited the meeting at 9:11 PM

3. PR-21-25 Resolution of Approval - Tvrdik, Thomas

As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions. Mr. Kleiberg made a motion to approve the Resolution, which was seconded by Mr. Whitson and received the below roll call:

RESULT:	**ADOPTED [5 TO 0]**
MOVER:	Robert Kleiberg, Class IV
SECONDER:	James Whitson, Vice Chairman
AYES:	Whitson, Cooper, Foster, Kleiberg, Davis
ABSENT:	Kahle, Savarese, Dailey, Tvrdik
INELIGIBLE:	Widdis

XI. **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.

XII. **Adjournment:** As there was no further business, the meeting was adjourned at 9:14 pm on a motion by Ms. Cooper which was seconded by Mr. Davis and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary