BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● AUGUST 11, 2020

Regular | **Maple Place School** | **7:30 PM**

2 Maple Place, Oceanport, NJ 07757

I. Call to Order: Mr. Kennedy called the meeting to order at 7:30 PM

II. Open Public Meetings Statement: This meeting complies with the Open Public Meetings Act by adequate and electronic notification on June 5, 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, Star Ledger and the LINK News and by the posting of same on the municipal bulletin board and Borough Web Site. Mr. Kennedy 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: Chairman Widdis led attendees and members of the Board in the flag salute.

IV. Roll Call:

Attendee Name	Title	Status	Arrived	Departed
Christopher Widdis	Chairman	Remote		
James Whitson	Vice Chairman	Remote		
Patty Cooper	Mayor's Designee	Remote		07:50 PM
Thomas Tvrdik	Class III	Absent		
Joseph Foster	Environmental Committee Liaison	Remote		
John (Jack) Kahle	Class IV	Remote		
Michael Savarese	Class IV	Remote		07:50 PM
Robert Kleiberg	Class IV	Remote		
Darren Davis	Class IV	Remote		
Michael Dailey	Alternate I	Remote		
Jacob Rue	Alternate II	Remote	7:45 PM	
Jeanne Smith	Board Secretary	Remote		
Kevin Kennedy	Board Attorney	Remote		
William White	Board Engineer/Planner	Remote		

V. Board Business:

1. Approval of Minutes, May 12, 2020

Minutes of May 12, 2020 were put off until the next meeting at the request of the Secretary with no objections.

2. Report of Pending Applications

Ms. Smith advised of upcoming matters for the September 8, 2020 meeting including the two carried from tonight's meeting, a new home construction on Comanche Drive and a site plan for parking lot at Triumphant Life Church on the former fort. Additionally, under review were several residential applications and two major applications from the former Fort including Alison Hall and 180 residential unit lodging area development.

VI. Old Business:

1. Resolution of Approval - 10 Hiawatha Ave, Walsh, Kevin

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

Motion to Approve PR-20-25

RESULT:	**ADOPTED [9 TO 0]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Michael Savarese, Class IV
AYES:	Widdis, Whitson, Cooper, Foster, Kahle, Savarese, Kleiberg, Davis, Dailey
ABSENT:	Tvrdik
INELIGIBLE:	Rue

Board Member Jacob Rue entered the meeting at 7:45 PM

2. Resolution of Approval - 8 Burnt Mill Circle, Cregle, Mark

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

Motion to Approve PR-20-26

RESULT:	**ADOPTED [7 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Darren Davis, Class IV
AYES:	Widdis, Whitson, Cooper, Foster, Kleiberg, Davis, Dailey
ABSENT:	Tvrdik
INELIGIBLE:	Kahle, Savarese, Rue

Mr. Savarese and Ms. Cooper recused from the next matter and exited the meeting at 7:50 PM.

3. PB2020-08 MSA at 64 Main Street LLC
   64 Main Street
   Block 116, Lot 25
   CARRIED from June 23, 2020

EXHIBITS:

A-15	Site Plan, prepared by Michael Savarese Associates, dated July 25, 2019, last revised July 20, 2020, consisting of 1 sheet
A-16	*Not Used*
A-17	Survey of Property, prepared by Thomas Santry, P.A. last revised July 23, 2020
A-18	Grading Plan, prepared by East Point Engineering, LLC, dated July 19, 2020
A-19	Maser Consulting Review Letter dated July 29, 2020

Mr. Kennedy described and marked for the record Exhibits A-15, A-16, A-17, A-18, A-19 and A-20. (Subsequently the exhibits were not numbered in order and resulted in A-16 not being used).

William White, Board Engineer and Planner, was sworn in. There was discussion concerning eligible members with a full (7-member) zoning board present and eligible.

Rick Brodsky, Attorney for the Applicant, provided a summary of the previous testimony, relief being sought and feedback from the Board. The Applicant has submitted revised plans in response to the Board's comments which now propose two units, each with one bedroom; clarification to the plans concerning the driveway, its width and the encroachment.

Michelle Del Vecchio, Architect for the Applicant, having previously been sworn and accepted as an expert in architecture, provided testimony highlighting the revisions to the plans including plan of existing conditions, proposed changes to 2nd floor layouts for both units with one bedroom (reduced from two bedrooms each), grading and drainage plan and survey. Ms. Del Vecchio also testified as to revisions in order to provide for a 4th parking space (2 spaces for each unit) to address concerns by the Board; provided details of the parking space, 9x18, 24' turnaround, 5' setback to the gravel parking area.

Chairman Widdis asked Mr. Brodsky to address Mr. White's review comments. Mr. Brodsky reviewed the variances being sought including existing lot area, existing lot width, impervious coverage driven by the driveway and new parking area, existing building coverage (no change to footprint), driveway setback and habitable floor areas which are existing non-conformities all of which their planner, Christine Coffone, had testified to previously, opining in her opinion that the relief being sought was justified and more so with the reduction in the number of bedrooms proposed.

Chairman Widdis asked if an easement would be sought from the neighbor or if they would reduce to the 9.8' width and remove the encroachment. Mr. Brodsky referred to the neighbor's letter requesting that the existing conditions remain.

Chairman Widdis asked Mr. White if the proposed parking worked with the turnaround. Mr. White answered it would be tight but could be done with a k-turn.

Chairman Widdis asked Mr. White if he had any other comments. Mr. White stated that the perc test of the soil showed that the Applicant would need to penetrate through the clay soil which would need to be made a condition of any approval if granted.

Chairman Widdis asked for questions from the Board:

Mr. Kleiberg asked questions about the floor plan for unit 1 which showed a sitting room which he asserts is another bedroom making the unit a 2-bedroom. The architect responded that the Applicant would open up the wall to a half wall and remove the closet. Mr. Kleiberg responded that could be easily converted to a bedroom down the road. Mr. Brodsky offered to have what ever needed to be done to keep the unit as a 1-bedroom.

Chairman Widdis commented that if the relief sought was granted he would want the resolution recorded at the County level.

Mr. Kahle asked for confirmation – a "d" variance and 5 bulk variances were being sought which Mr. Brodsky confirmed yes, 3 of which were existing conditions. Mr. Kahle expressed concern that granting that number of variances would set a precedent for other single-family homes coming in to change to 2-family needing the same relief. There was discussion on the zone allowing 2-family, existing conditions and the merits of each application have to be weighed.

Mr. Foster asked in compliment to Mr. Kahle's questions, how does the granting of the variances advance planning in the Oceanport community related to positive and negative criteria. Mr. Brodsky advised that the Planner had provided testimony concerning that at the last hearing but was present and could review again.

Chairman Widdis stated he wanted to complete the architect first.

PUBLIC: Chairman Widdis opened the meeting to the public for questions of the architect only. Mr. Kennedy provided the participation information. As no one from the public appeared, that portion of the meeting was closed.

Mr. Kleiberg asked if each unit would have its own utilities.

Mr. Brodsky recalled Ms. Cofone, Planner, to address additional questions by the Board. Ms. Cofone acknowledged that she remained under oath from the last hearing. Ms. Cofone provided additional testimony to address the Board's concerns regarding the use of the property and future applications and explained the law's requirements for applications to stand on its own merits, the facts for each particular case have to be applied. Ms. Cofone furthered that the Applicant had performed additional research through OPRA requests, documented the historical use, similar uses on surrounding lots, the existing conditions were being bettered by the application, and that there is something to be said about having a variety of housing options in a community. Two-family are permitted in the zone and the proposed 2-family would be allowed were it not for the existing conditions.

Chairman Widdis asked for questions from the Board for Ms. Cofone.

Mr. Davis commented that ordinances and requirements are put in place it's to protect the zone from undersized lots. Discussion ensued with Ms. Cofone stating her opinion as to when it was acceptable to permit undersized lots to be used outside of the zoning criteria, existing conditions versus newly created, proofs of negative and positive criteria.

Chairman Widdis commented that the exiting conditions are a single family with 3 bedrooms with 1 illegal bedroom.

PUBLIC: Chairman Widdis opened the meeting to the public for questions of the planner only. Mr. Kennedy provided the participation information. As no one from the public appeared, that portion of the meeting was closed.

Mr. Brodsky called Michael Savarese, II, Applicant who appeared, acknowledged he remained under oath from the previous hearing. Mr. Savarse gave a statement concerning the details of the application, the relief being sought being based on existing conditions, their efforts to address the Board's concerns and comments, the need for this type of housing and hopes that the Board has heard and accepted the testimony from his professionals.

PUBLIC: Chairman Widdis opened the meeting to the public for questions of the owner only. Mr. Kennedy provided the participation information. As no one from the public appeared, that portion of the meeting was closed.

Mr. Kennedy requested of the Board the opportunity to comment after Mr. Brodsky's summation.

Mr. Brodsky gave his summation of the applications, efforts to provide a plan that addresses the Board's concerns and provides a better planning alternative to a large single family home, the overall positive impacts to the neighborhood and the community at large and based on the factual testimony, urged the Board to look favorably on the applications.

PUBLIC: Chairman Widdis opened the meeting to the public for comments on the application. Mr. Kennedy provided the participation information. As no one from the public appeared, that portion of the meeting was closed.

Mr. Kennedy addressed the Board regarding legal issues from the hearing, first, if approved, what could be done to minimize the possibility of the site being converted in the future illegally or improperly utilized – record resolution, impose deed restriction, require leases to state 1-bedroom only, were types of steps that could be made to address that concern. Secondly, the variances being sought had different standards – one being can the site accommodate the proposed density – which was up to the Board to determine the pros and cons balance. Thirdly, the question if approved, does it set a precedent for other application – the answer is no – the application rises and falls on its own merits and provided examples. Additionally, one of the standards the Board needs to think about is what is a better overall zoning alternative and what is the overall impact of the application. Also to be considered is not necessarily focus on the number of the variances but the impact of the variances. Lastly, the decision on the application should not be based on the relationship with Mr. Savarese. Five affirmative votes are necessary for approval.

Mr. Kahle asked additional questions regarding approvals and the impact on future applications. There was discussion on this issue at length, various scenarios, and the emphasis being on specifics to each application.

Motion to Approve Application with Conditions

Mr. Foster made a motion to approve the amended application with several conditions. As there was no second to the motion, the motion failed.

Motion to Deny Application

Chairman Widdis made a motion to deny the application which was seconded by Mr. Kahle. Mr. Whitson expressed his vote was based on the density, Mr. Kahle's concerns were density and severely undersized lot, Mr. Davis felt it was just not a good application, Mr. Dailey's concerns were density and potential misuse and Chairman Widdis' concerns were for density and the site was likely a 1-unit for many years.

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

VII. New Business:

1. PB2020-01 Sempkowski, Anthony

Mr. Kennedy advised that the Applicant's Attorney, Mr. Toto, had submitted a request to adjourn the hearing to the September 8, 2020 meeting as additional time was necessary to prepare amended mapping. As jurisdiction had been previously accepted and a written waiver extending the time period for a decision by the Board through September 30, 2020, a motion was made by Mr. Whitson and seconded by Mr. Kleiberg.

Motion to Carry Application to the September 8, 2020 Meeting with No Additional Notice Required

RESULT:	**ADOPTED [9 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Foster, Kahle, Savarese, Kleiberg, Davis, Dailey
ABSENT:	Tvrdik
INELIGIBLE:	Rue

2. PB2020-09 MPCC II

   Motion to Accept Jurisdiction and Carry the Application to the September 8, 2020 meeting with no additional notice required.

RESULT:	**ADOPTED [9 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Foster, Kahle, Savarese, Kleiberg, Davis, Dailey
ABSENT:	Tvrdik
INELIGIBLE:	Rue

VIII. 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.

IX. Adjournment: As there was no further business, the meeting was adjourned at 9:45 pm on a motion by Mr. Davis which was seconded by Mr. Kahle and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary