

**OCEANPORT PLANNING BOARD
MINUTES
August 11, 2015**

Chairman Widdis called the meeting to order at 7:30 p.m. and gave the Statement of Compliance with the Open Public Meetings Act: "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 29, 2015, and by the posting of same on the municipal bulletin board and Borough Web Site."

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mayor Mahon, Councilman Gallo, Mr. Kahle, Mr. Kleiberg, Mr. Sullivan, Mr. Fichter, Mr. Savarese, Mr. Whitson, Mr. Widdis

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

BOARD BUSINESS:

1. Master Plan Amendment – PUBLIC HEARING on adoption of Fort Monmouth Historic Guidelines

Chairman Widdis summarized the Board's previous discussion and review of the document that set standards for developments located in the Historic District and then opened the meeting to the public for questions and comments on the proposed amendment.

PUBLIC:

Amy Sleavin, 55 Cayuga Avenue, appeared and asked if she could discuss the Acute Care facility. Ms. Smith advised that the public hearing was open to the public for questions and comments on the Master Plan Amendment only.

Chairman Widdis stated for the record that Acute Care was not on the Agenda for tonight's meeting and that it was unknown at this time when further business on that development would be considered by the Board.

As no one else from the public wished to be heard Chairman Widdis closed that portion of the hearing. Chairman Widdis asked Ms. Smith to read the resolution in full for the record.

Mr. Whitson made a motion to approve the resolution adopting the Fort Monmouth Historic Guidelines as an Appendix to the Master Plan which was seconded by Mr. Sullivan and received the following roll call:

AYES:	Mr. Whitson, Mayor Mahon, Councilman Gallo, Mr. Sullivan, Mr. Kahle, Mr. Kleiberg, Mr. Fichter, Mr. Savarese, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	None

Ms. Smith stated the motion carried.

OLD BUSINESS:

2. PB2014-07 Parent, Kimberly
23 Branch Avenue
Block 139, Lot 44
Request for Minor Subdivision with Variances
- CARRIED from June 23, 2015**

Chairman Widdis advised that the Applicant had requested an adjournment to the September 8, 2015 meeting but it was his opinion that the Applicant should be required to start over as this application has been ongoing for a year now and he for one had no recollection of previous testimony and that there had been several adjournments including a re-notice required and asked how everyone else felt. Several Board members expressed agreement with the Chairman.

Mr. DeNoia briefed the Board members on the options available including accepting the request to adjourn to a date certain or a dismissal of the application without prejudice. Afterwards, Mr. Kleiberg made a motion to dismiss the application without prejudice which was seconded by Mr. Kahle and received the following roll call:

AYES:	Mr. Whitson, Mayor Mahon, Councilman Gallo, Mr. Sullivan, Mr. Kahle, Mr. Kleiberg, Mr. Widdis
NAYES:	None
ABSTAIN:	Mr. Fichter, Mr. Savarese
ABSENT:	None

Ms. Smith stated the motion carried. Chairman Widdis directed Ms. Smith to advise the Applicant of the Board's decision.

NEW BUSINESS:

Chairman Widdis advised that they would like to take the Agenda out of order to address the application for Tom and Christian Buckman first to which there was no objection by the Board members.

Mr. Shaheen, Attorney for the DeMarco Development, asked that the Agenda not be taken out of order as one of his professionals had another obligation later that evening in West Long Branch. Chairman Widdis asked how many professionals were to testify and was told 2 – engineer and a planner.

Chairman Widdis stated that the Buckman application would proceed first as they had no professionals and was not anticipated to take as long.

3. PB2015-12 Buckman, Tom & Christian
13 Serand Avenue
Block 24, Lot 11
Request for Bulk Variances

The following persons were sworn in: Tom Buckman, Christian Buckman, Applicants and William White, Board Engineer and Planner.

Mr. DeNoia advised that service had been reviewed and was in order and the Board accepted jurisdiction.

Mr. Buckman stated that they had raised the house and they wanted to put a porch on the front which violated the setback from the street by a few feet.

Chairman Widdis asked when they applied to the town for a building permit didn't they say anything about this before you raised the house? Mr. Buckman answered not that he remembered.

Mr. White asked if the porch was part of the original plan or was it an additional, Mr. Buckman answered the architect's plans had the porch on it. Chairman Widdis asked them to describe the front porch.

Mr. Buckman testified that the garage already comes out about 3' and the porch would go out the same distance and almost $\frac{3}{4}$ across the front of the house and out 8'.

Mr. Savarese commented that the plans show 8'x32'.

Chairman Widdis asked who prepared the plans. Mr. Buckman answered Anthony Condouris. Mr. White added last revised June 10, 2009, consisting of 3 sheets – the architectural plans. Mr. White stated that the survey was prepared by Azmuth Surveying Inc., dated March 24, 2015 and shows the proposed front porch.

Chairman Widdis asked then you're only here for the front porch and was told yes. Chairman Widdis asked about the walkway from the driveway to the house. Mr. Buckman stated steps. Chairman Widdis asked if they had to include that and Mr. White replied in the impervious coverage yes but not the structure itself.

Mr. White asked before they raised the house was there a front porch there as he has a survey and architectural plans. Mr. Buckman responded it was only a landing. Mr. White pointed out that the architectural plan shows lot coverage existing 39.2%, proposed 43.0% when in fact there's 37% allowed in the zone so with the house it was over and with the addition brought it over even further and was one of the variances determined needed and covered by the catch all phrase language.

Mr. DeNoia stated that what was being said was they are raising their house and the definition in Oceanport the steps are not part of building coverage but impervious coverage so consequently those steps now increase the coverage of the lot which they are already in excess of and now a bit further and therefore they needed an additional variance for impervious coverage.

Mr. White noted for the record that the front yard setback needed a variance for 21.6' setback where 24' permitted for front porch encroachment.

Mr. Kahle asked if house was on a slab and was told part of it was. Mr. Kahle commented that it says proposed walkway but the applicant is saying it's an existing walkway but the steps coming down are new so what they're doing is putting porch on front, coming down couple steps to the landing and turning to go down steps to walkway that was already there and was told correct.

Mayor Mahon asked if the rear deck was already there and was told yes.

Mr. Whitson commented that the Engineer's letter says there's nothing about grading of the property and asked if they were planning to do any re-grading – to clear up a question the engineer had.

Mrs. Buckman responded if it was necessary they would but they were not planning to re-grade.

Mr. Kahle asked how close was the landing coming off of - how close was that to the road. There was discussion but nothing conclusive.

Mr. Savarese asked if the neighbors on either side how far to the street were they. Mr. Buckman responded that one was a corner lot that faced Comanche and the one on the other side he would be out a little bit further from them.

Mr. Savarese asked if they would consider changing the size of the deck smaller to reduce the encroachment of the front yard setback. Mr. Buckman responded then they wouldn't need the variance and they would like to stay with what they were proposing.

Mr. Fichter asked if they knew what their base flood elevation was and was told 11.5. Mr. White answered in that neighborhood it should be higher – about 12.4. Mr. Buckman stated that they had already gone through everything and it had passed so he believed it was in order.

Mr. Kleiberg commented that he drove by and he thinks what they are proposing fits.

Chairman Widdis asked Mr. White if there were any grading issues. Mr. White responded that if they decide later on they want to grade they can bring in to the construction office but wasn't a part of this.

Mr. Kahle asked if they had done any grading change and was told nothing. Mr. White answered only if they change the grade would a grading plan be needed.

PUBLIC:

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

Mr. DeNoia asked for clarification there are 2 variances – front yard and impervious coverage. Mayor Mahon pointed out that there was rear yard setback non-conformity for the existing deck. Mr. DeNoia commented to the Applicant that the Mayor is suggesting that that be included. Mr. Buckman requested that it be added to the application.

Mayor Mahon made a motion to approve the application for 3 variances – rear yard setback, front yard setback and impervious coverage which was seconded by Mr. Whitson and received the following roll call:

AYES:	Mr. Whitson, Mayor Mahon, Councilman Gallo, Mr. Sullivan, Mr. Kahle, Mr. Kleiberg, Mr. Fichter, Mr. Savarese, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	None

Ms. Smith stated the motion carried.

4. PB2015-13 DeMarco Development
91 Monmouth Road
Block 136, Lot 51
Request for Minor Subdivision with Variances

A-1 Front Yard Setback Plan prepared by Charles Surmonte P.E. & P.L.S. dated August 10, 2015

David Shaheen, Attorney for the Applicant, appeared, described the site's location and surrounding neighborhood, described the details of the subject lot, their proposal to divide the parcel into 2 lots; and that he had present both the engineer/surveyor and property owner to provide testimony and answer questions and asked if service had been acceptable.

Mr. DeNoia advised that service had been reviewed, was in order and the Board accepted jurisdiction.

Mr. Shaheen called upon Charles Surmonte, Engineer and Surveyor for the Applicant who was sworn in and having previously been accepted by the Board was accepted by the Board as an expert in both fields. Mr. Shaheen next described the variances being requested for minimum lot width and potential need for variance relief for average front setback for the new house which he requested the Board determine.

Chairman Widdis asked Mr. White for his comments or questions.

Mr. White stated it appeared the Applicant was seeking to create a lot, has not provided any type of idea for footprint and no architectural plans which the Board has previously required and therefore it was unknown at this time if a 2nd variance would be necessary.

Mr. Shaheen stated the reason they had not provided – which Mr. White had requested as his client isn't necessarily going to build on this property and may sell to a builder so there are no architectural

plans at this point. Mr. Shaheen added that they had provided a box representing the building footprint of a 2,000-2400 square foot house would fit within the confines of the lot.

Charles Surmonte, Surveyor and Engineer for the Applicant, was sworn in and having previously been qualified before this Board was accepted as an expert in surveying and engineering.

Mr. Surmonte provided testimony including time of acquisition, character of the property encompassed by nearly a 1/3 of the property taken up by freshwater wetlands, interpretation letter from the State and the required 50' buffer, described the transition area, described existing structures, their impact on design and decision where to place the subdivision line, factors including driveway access to eliminate need to back out onto Monmouth Road thus the reason for side entry garage was critical. Mr. Surmonte further testified concerning several ways to divide the lot considered including more than 2 lots but constrained by the wetlands being why they decided to present the plan before the Board presently.

Mr. Shaheen submitted and described a Front Yard Setback Plan which was marked as Exhibit **A-1**.

Mr. Surmonte referring to Exhibit A-1 described the plan which showed the existing house, the proposed house on the new lot, the existing house on the corner known as 31 Evergreen, the front yard setbacks of each of those lots, the front setback for the existing house was 30.3' and their request to hold a similar setback for the proposed house, factoring the house on the corner would adjust the average to about 31'.

Mr. Shaheen asked the Board if the house on Evergreen should be considered in the calculation as it was not facing Monmouth Road, rather facing Evergreen Lane and if so they would seek a variance to allow them to set the new dwelling on Lot 51.02 at the same setback as the existing home on Lot 51.01.

Mr. White advised the Board that the Ordinance does not make a distinction with regard to corner lots whether it fronts on one or the other; it says lots within 200' with structures *not* structures that front on the same street within 200' and it's his interpretation that the house on the corner lot should be included in the calculation and therefore would need a variance for that.

Mr. Shaheen argued why he believed a corner lot potentially skews it and the importance of keeping the streetscape but would accept the Board's decision.

Mr. DeNoia asked for a description of the relief to be sought for that. Mr. Surmonte stated 31.2' would be the average and that they were proposing the new house to have a front setback the same as the existing house at 30.3'.

Mr. Shaheen affirmed that they would seek a front setback of 30.3'

Mr. Shaheen proceeded to address items from Mr. White's review letter. Mr. Shaheen argued that the request to install a sidewalk would need input from the State and wouldn't make much sense as it would go nowhere other than into Turtle Mill Creek. Discussion ensued on whether to require the sidewalk and Mr. White's concerns that pedestrians that regularly walk that roadway coming back from the stores to the south.

Mr. Shaheen stated they would agree to install sidewalk from the corner house to the driveway of the new house.

Mr. White asked Mr. Surmonte about a depiction on the survey on proposed Lot 51.01 labeled "cover". Mr. Surmonte answered that it was just storage. Mr. White advised it's a fabric structure and that the Applicant and Property owner should be aware that they are prohibited by the ordinance without specific permits and only available for a short period of time and should contact the construction office to be compliant.

Chairman Widdis asked for questions from the Board.

Mr. Fichter asked about a note on the plan that shows the house was above base flood elevation and what was that elevation and was it per a FIRM map. Mr. Surmonte answered 13' or 14' and believed the creek not to be tidal. Mr. Fichter stated the house was set at 21'. Mr. Surmonte answered yes, it would be a little high.

Mr. Kleiberg asked did the 2-story building box include porch, steps, entrance way, everything else and wouldn't have to come back. Mr. Surmonte answered yes. Mr. Kleiberg asked was it the same for the proposed driveway – it wouldn't expand. Mr. Surmonte responded that it could, that whoever develops the lot would be in their right to do some buffer averaging and be in a position where it could expand. Mr. Kleiberg stated his concern was the box getting larger. Mr. Surmonte answered that it could get larger but it won't come forward or left of where they're showing it. Chairman Widdis commented that could be a problem going forward. There was further discussion on the potential enlargement of the building box and how it could be done without requiring a variance.

Mr. Savarese asked about the part of the ordinance that allows a covered porch to go 6' into the setback and should that be restricted. Mr. Shaheen stated he was not aware of that part of the ordinance but also would not want to restrict that going forward, all the other features comply with the zoning requirements. Mr. Savarese commented that it would change the average of the front yard setback and believes the Board should put a restriction on it and asked if the Board could put a restriction on it. Mr. White answered absolutely. Mr. Savarese added that the question is that they want to keep that 30' buffer and want to make sure no one else comes back later adding on and puts a porch on and that if the Board were to approve this he would request that they be restricted from putting on a porch the additional 6' into the front yard. Mr. White stated that would be no problem and if the builder wants to do something different he has to come back to the Board for a variance. Mr. Shaheen stated he would be ok with that.

Mr. Kahle asked where the proposed dwelling was going was it currently treed or was it clear. Mr. Surmonte answered it was treed. Mr. Kahle stated the reason he was asking because of the adjacent land being designated in the Borough's Master Plan as a bird sanctuary. Mr. White pointed out that the Borough owns the lot to the south and that the proposed house was not near the sanctuary. Mr. Kahle lastly commented that was all he had as long as the wetlands were taken care of.

Chairman Widdis expressed concern that the driveway should provide for a K-turn so that no one has to back out into Monmouth Road and asked for the dimensions. Mr. White answered it looks like 28' to 32' and basically looking for a 28' – 38' for a side entry garage. Chairman Widdis asked what was the width of the driveway just below the line and was told 12'. Mr. Shaheen stated that could be widened. Chairman Widdis asked for it to be moved so that there's no need to back out into the roadway. Mr. Fichter commented that the NJDOT would also require that. Mr. Savarese commented that with the widening of the driveway at the street the more cars that could be parked there and then backing out. Chairman Widdis stated he wanted any approval to prohibit backing out of the driveway. Mr. White commented that it should be narrowed. There was additional discussion on the issue and how to implement the restriction.

Chairman Widdis asked how large was the transition area to the house. Mr. Surmonte answered 20-25' where its shown right now. Chairman Widdis continued then there's not much room if someone wants to put a pool. Mr. Surmonte advised how the transition area could be adjusted to accommodate that. Chairman Widdis asked questions about moving the house over and moving the proposed property line over. Mr. Surmonte responded that they could have but they felt that the plan they came up with was balanced. Mr. Shaheen added that they kept it at 100' to provide enough useable area for the right hand lot.

Chairman Widdis asked what was the size of the existing house to which Mr. Shaheen answered about 900 square foot. There was discussion on potential for expanding that house in the future and the likelihood that someone would in the future. Mr. Shaheen stated he thought there was plenty of room for them to do that but whatever they did they'd have to come back because of the 100' width.

Mr. DeNoia commented that the Board's concern was that someone coming back and saying that the Board created the hardship so you have to give the variance as this has happened in the past which was why all of the questions. Mr. DeMarco sells the lot and the new owners come in and say have this hardship because of the wetlands and what the Board created so they have to give the variance.

Mr. Shaheen opined as to the variety of ways considered to design the property and that his Planner would provide testimony as to why they felt this design was the best one.

Mr. Whitson commented that he thought the sidewalk was a good idea. He then asked they are requesting that the Board approve the shown 2-story building but then telling them that they may perhaps build a bigger one but they're asking for them to approve this one. Mr. Shaheen answered that they weren't asking them to approve a building but asking for a subdivision and the box only shows the area that a house would fit.

Councilman Gallo asked if the buffer line could be moved. Mr. Shaheen explained how the buffer line could be averaged and reduced subject to approval by the NJDEP and subject to replacing the changed buffer to somewhere else on the lot. Councilman Gallo asked additional questions about the buffer change and the side yard setbacks, combined side yards.

Mayor Mahon asked if they were willing to move the lot line on the original lot to the 125' and would they be able to do the buffer averaging incorporating both of the lots, do it now on the existing lot before it's subdivided to create the additional frontage they need on the new lot to slide everything to the proper widths. Mr. Shaheen answered they had not done the calculations, he thinks they could squeeze it in but explained that moving it over the 25' you take the 25' off the buffer and then create the same issue on the other lot limiting the use of that lot, whereas if its kept where its at it creates more useable area for that lot. Mayor Mahon asked if the property owner lived in the existing house, was told no; asked if anyone occupied the house, was told yes; asked if both lots would be put up for sale and was told not immediately and would keep the one renovated. Mayor Mahon asked would it be fair to anticipate that both lots would be for sale and that they would be seeking a developer to build 2 new structures – 1 on a lot of 100' and 1 on a lot of 125'. Mr. Shaheen answered no, but eventually it would happen. Chairman Widdis answered it's a 900 square feet house, it's a fact.

Mayor Mahon asked if it was possible to create the averaging now before the lot was subdivided, therefore able to use space on lot 1 which isn't in that buffer at all to create more useable space at the front of proposed lot 2. Mr. Shaheen answered if they move the lot line over after the averaging they've defeated the ability to create more useable area for lot 2. Mayor Mahon stated his hope is to create 2 conforming lots.

Chairman Widdis stated he sees there's a lot of room to move that lot line 25'. Chairman Widdis argued that the back of the property could be used to move the buffer line to the north. Mr. White interjected that the problem is trying to make lot 1, if you shift everything over 25' that buffer line relative to that house would be the same because you reduce the buffer to the same.

There was a lengthy discussion referring to the map where lines could be moved to create conforming lots, where the buffer line could be moved, how to create more useable space for both lots, concern with creating a lot and someone saying its buildable, prior cases in court for similar arguments where hardship claimed because the Board created something and how other designs would be less environmentally sensitive.

PUBLIC:

Chairman Widdis opened the meeting to the public for questions for this witness only. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Mr. Kahle asked what was being done with the 2-story building and was told just asking for subdivision and only showing the building area that would comply with setbacks and meet zoning ordinance.

Mr. Shaheen asked if the Board had anything else for Mr. Surmonte and if not, was it acceptable for him to leave and was told yes. Mr. Surmonte exited at 8:41 p.m.

Keenan Hughes, Professional Planner for the Applicant, appeared, was sworn in, presented his qualifications and was accepted by the Board as an expert in planning.

Mr. Hughes provided testimony concerning his involvement in the evaluation of various proposals for the property, flag lots, aggressive proposals, the Borough's ordinance discouraging flag lots and backed off that and ultimately the decision to proposed the current plan. Mr. Hughes described the location of the property, features of the property, uniquely large, existing structures, uniqueness of location and familiarity with the wetlands.

Mr. DeNoia asked Mr. Hughes as part of his testimony to give the Board the benefit of not the size of the lot but the size of the lot not impacted by environmentally sensitive areas as the Board has had issues in the past where someone comes in and says the lot is 5x larger than any in the zone but this lot is dramatically restricted by environmental areas.

Mr. Hughes then provided testimony on the lot's compliance with the zoning, described the request for relief on the lot width for one of the lots and based on earlier discussions they were seeking a diminimus variance for the average front yard setback, otherwise both lots were completely conforming as to setbacks. Mr. Shaheen asked then besides that minor variance the only other is for the lot width which Mr. Hughes answered yes, otherwise the lots are fully conforming with respect to setbacks, coverage and area with 51.02 being greatly exceeding the minimum lot area of 15,000 square feet. Mr. Shaheen asked if they moved the line it would be even larger to which Mr. Hughes answered correct. Mr. Shaheen asked if that would be consistent with the rest of the lots in the zone which Mr. Hughes responded with respect to this particular lot, if one was considering an infill location where it was fully built out and proposing a 100' lot in the context of 125' lots he believes it would be a much different analysis but here a 100' lot in terms of neighborhood character, visual appearance and due to its great size he didn't believe there were any visual impacts.

Mr. Hughes further testified as to the justification for the requested variance relief with respect to the lot width with the benefits outweighing the detriments, purposes of municipal land use law would be advanced and negative criteria arguing that this was the best plan from a planning perspective with key considerations being to limit disturbance to wetlands as it would promote the general welfare and conservation of valuable natural resources; opined as to the negative criteria being someone's intent to come in down the road and build a larger house with a variance, however, it was his opinion that the variance couldn't be granted on a hardship as the knowledge of the subdivision clearly will outline the lot width of 100'; another negative may be neighborhood characteristics but didn't feel it was the case herd due to the unique location and for the protection of the wetlands. Mr. Hughes further testified it was his opinion that it was a buildable site, able to be built in full conformance and would not negatively impact the zone; no substantial detriments to the public good; intent for the lot width variance was not being substantially impaired given the fact that it was at the edge of the R-2 zone and not located in a fully built-out residential neighborhood.

Mr. Hughes next provided testimony concerning the front yard setback variance being a diminimus variance for a 30.3' setback in line with the existing dwelling and would align the new house with the character of the homes to the left and right of it and that was what was being done here – promotes a desirable visual environment and no detrimental impacts; and at the request of the Chairman opined why the house on the corner skewed the average as the house actually fronts on Evergreen and that it was better to align the proposed house to the existing house fronting on Monmouth Road.

Chairman Widdis asked for questions from the Board.

Mr. Kahle asked if the 30.3' setback included the porch or were they going to allow someone to add a porch into the setback as the ordinance permits which would then make it not the same as the adjacent house. Mr. Hughes responded that from a planning perspective, the massing of the house would align irrespective of the porch. Mr. Kahle asked we are only approving the subdivision and not the building area shown, a person couldn't come in and flip the driveway over to the other side and then the Board loses control over the property. Mr. White advised that they would still have to be compliant with what they are seeking tonight and with regard to flipping the driveway, the DOT would tell them where the driveway had to go.

Mr. DeNoia clarified that the language will require a turn-around on the lot, what those dimensions are would depend on what the engineer wants to which Mr. Shaheen said they had no objection.

Mr. Kahle asked if a grading plan would be done. Mr. White answered yes, with every application.

Mr. DeNoia asked about the sidewalk and where was it to start and end.

Mr. Fichter stated he agreed with the whole frontage.

Mr. Kleiberg commented all the way down to the guardrail.

Mayor Mahon commented that it would end at the Borough lot which was between the property and the bridge structure.

Mr. Savarese stated if they were to approve the plan as it was, he still believes that a porch should not be projected and asked if they would be willing to add a condition that a porch not be permitted to project into the front yard as allowed by zoning on this particular lot which would put it out at 24'. Mr. Shaheen asked was he talking about just a covered porch, not something you just walked down on and asked what were the restrictions. Mr. White responded that porches may project 6' into the setback but Mr. Savarese is seeking to override that part of the ordinance that allows that part of the structure so that no part of the structure is more than 30.3'. Mr. Shaheen asked would that include would that would have steps down to and was told everything.

Mr. Hughes requested to address the matter, was given the floor, and testified that from a planning perspective, the intent is for the front façade of the homes to be aligned and if they move back that home in order to have the porch be behind that setback it would in fact be out of alignment.

Mr. Savarese commented that you do the porch all the way across or half of a porch. Mr. Shaheen answered they wouldn't be opposed to that.

Mr. Kahle asked if the Board goes with that and the people next door knock down that house and come put a house in would they be allowed to put a porch on into the setback. Mr. Shaheen answered no matter what they do they will need a variance because it's an undersized lot and would give the Board control over that.

Mr. Savarese asked couldn't we put the restriction on both lots.

Mayor Mahon commented that's what we need to do.

Mr. DeNoia answered yes.

Mr. Savarese continued that the 125 vs. the 120, it doesn't matter because there was only 3 lots on the street but thinks the bigger thing is making sure no one comes out to the 24'.

Mayor Mahon stated to Mr. Savarese's statement 120' vs. 125' but aren't they actually showing it at 100'? As that it was a bigger difference. Mr. Savarese responded that's what he meant.

Mr. Kleiberg stated he likes the 125' as opposed to the 100' on 51.01, as you know that house was going to be torn down at some point, center it on the lot as there's no way they can go up on that house – it won't support itself. He would like to see 125' and move everything south.

Mr. Fichter commented that he heard good testimony for the 100' wide lot but he thinks the 125' width can be achieved without much trouble, the only argument that he finds traction with was the environment but the DEP was going to police that so if the DEP was okay with that and the Board can get 125' we have to do that. If the DEP says no, then it's a different discussion.

Chairman Widdis stated he agreed that effort should be put forward to at least present with an averaging of the properties so that they know; if they can't do it, they can't do it but he'd like to see the 25' and an effort needs to be put forward to address it and would be the better plan from a planning perspective.

PUBLIC:

Chairman Widdis opened the meeting to the public for questions for this witness only. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Chairman Widdis stated that at this point it was up to Mr. Shaheen how he wished to proceed.

Mr. Shaheen answered he has no more testimony, he thinks the concern was that if it was denied in its present configuration and they go to the DEP and the DEP gives a difficult time on the buffer averaging and say no, they like it the way it is; he doesn't know if they have the ability to come back and ask for it when they've already been denied.

Mr. DeNoia asked if he wished the Board to not vote tonight for time to get that information or would they like the Board to vote tonight because they can do that.

Mr. Shaheen stated the answer they need to get from the DEP takes 6 months to a year to get.

Mr. Fichter opined that the Board could approve the application with the condition of the front yard setback and 125', there was discussion from Mr. Surmonte that that should be okay to get buffer averaging from the DEP so the assumption with that as a condition...

Chairman Widdis asked Mr. DeNoia if the Board could grant an approval that way.

Mr. DeNoia observed that the Applicant has heard the input and comments, but it's the Applicant's position to structure their application as inclined, if that were the case, he believes that the Board would need additional plans and drawings and should that be done tonight or approve something conceptually when it's been a concern of the Board to approve conceptual.

Mr. Shaheen asked if the Board could be straw polled and was told no, not for a variance. It was suggested that Mr. Shaheen take a moment to consult with his client.

At 9:10 pm the Board adjourned for a 5-minute recess.

At 9:19 pm the meeting resumed with all members present.

Mr. Shaheen requested the Board grant an adjournment of the hearing to provide them with the opportunity to explore the option of 125' and contact the NJDEP to seek options to the buffering averaging or a different configuration that would address the Board's concerns which was granted by

the Board to be carried to the October 13, 2015 meeting with no additional notice required. Mr. Shaheen stated that they would grant a waiver of the time requirement for a decision.

Mr. DeNoia addressed a question that was raised concerning a potential conflict with Mr. Hughes whose firm had prepared the Historic Guidelines earlier adopted by the Board. Mr. Hughes testified for the record that his firm has performed various works for FMERA and he had not participated in the work concerning the Historic Guidelines nor had his firm contracted with or performed any work on behalf of the Borough of Oceanport.

Mayor Mahon stated for the record that he is an ex-officio member of FMERA he had for the purposes of approving the relationship with FMERA had voted for the firm to be hired and continue as a consultant for FMERA and would abstain on a vote for the application should the Planning Board Attorney so desire. Mr. DeNoia commented that based on the statements and testimony there was no benefit to the Board or any conflict that would require the Mayor to abstain.

PETITIONS FROM THE PUBLIC: Chairman Widdis opened the meeting to Petitions from the Public.

Roseanne Letson, 37 Morris Place, asked if stuff for the Planning Board had to be on the Agenda in advance so what was the purpose of the petitions from the public, what do they talk about. Mr. DeNoia answered that they talk about concerns not an actual application, or have a conceptual question or want to know how something works.

Marty Middough, 35 Burnt Mill Circle, asked about the makeup of the Board as it had been years since he attended any meetings and it was his memory that there has always been a member of Council on the Board but had never seen the Mayor as part of the Board. Mr. DeNoia answered it was statutory – the Mayor was another elected official member part of the Board and the concept under the Municipal Land Use Law was to have synergy between the governing body and the Board. Mr. Middough commented which was why a councilperson was on the Board. Mr. DeNoia answered that the Mayor by statute was a member of the Board or his designee. Mr. Middough commented that he couldn't recall any other Mayor sitting and discussed with Applicant. Chairman Widdis responded that Lucille Chaump and Tom Cavanaugh while Mayor. Mr. Middough asked when did Mayor Mahon start sitting and participating on the Board. Chairman Widdis answered January 1, 2015. Mr. Middough asked if there was specific reason he was sitting now. Vice Chairman Whitson commented that the Mayor had been on the Board before. Mr. DeNoia commented that he sat as an elected official in his town and that it wasn't uncommon.

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

ADJOURNMENT: As there was no further business, the meeting was adjourned at 9:29 p.m. on a motion by Mr. Whitson which was seconded by Mr. Savarese and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary