BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● AUGUST 10, 2021

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

910 Oceanport Way, Oceanport, NJ 07757

I. **Call to Order:** Vice-Chairman Whitson called the meeting to order at 7:00 PM

II. **Board Policy:** Vice-Chairman Whitson 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:** Vice Chairman Whitson led attendees and members of the Board in the flag salute.

V. **Roll Call:**

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

VI. **Board Business:**

1. RPM North - Revised Landscape Plan

Ms. Smith updated the Board on the status of the RPM North development nearing completion and letter of notification from the Conflict Engineer of minor change to Site Plan permitting for certain shade trees to be planted at other locations on site at request of residents concerned with nearness to foundations.

2. Report of Pending Applications

Ms. Smith advised of upcoming applications for the September 14, 2021 and September 28, 2021.

VII. **Approval of Minutes:**

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

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

2. Planning/Zoning Board - Regular - Apr 27, 2021 7:00 PM

RESULT:	**ACCEPTED [6 TO 0]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Whitson, Cooper, Tvrdik, Foster, Davis, Dailey
ABSTAIN:	Kahle, Kleiberg
ABSENT:	Widdis, Savarese

3. Planning/Zoning Board - Regular - Jul 13, 2021 7:00 PM

RESULT:	**ACCEPTED [7 TO 0]**
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Whitson, Cooper, Tvrdik, Foster, Kahle, Davis, Dailey
ABSTAIN:	Kleiberg
ABSENT:	Widdis, Savarese

Councilman Tvrdik recused himself from the next matter as the Applicant of the application

VIII. New Business: Councilman Tvrdik recused himself from the next matter as the Applicant of the application.

1. PB2021-14 Tvrdik, Thomas

140 Comanche Drive
Block 19, Lot 9
Minor Subdivision

Exhibits
A-1 Land Development Application
A-2 Minor Subdivision Plan, prepared by Charles Surmonte, PP, PE, dated June 20, 2021
A-3 Survey of Property, prepared by Charles Surmonte, PP, PE, dated June 14, 2021
A-4 Colliers Engineering Review Letter dated August 2, 2021

Mr. Kennedy provided a brief statement regarding the unique aspects of this application and questions as to perceived conflicts of interests for applicants that are Board members. In this incidence the Applicant has secured an attorney and professionals to represent and the law does not provide for the application to be transferred to another local board. By law, there is no conflict just because of knowing someone but is when there is a direct pecuniary interest or financial gain or direct personal interest or indirect interest that may influence a decision. It was his opinion that there was no conflict in this matter and requested that all Board members consent as to same to which there were none.

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. 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. 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.

Charles Surmonte, Surveyor/Engineer for Applicant, was sworn in and accepted as an expert having previously been before the Board. Mr. Surmonte provided testimony as to the location of the property, characteristics and the proposed lots, lot area, dimensions and the need for variance relief due to the lots abutting a second roadway and technically requiring two (2) 120' frontages meeting the lot width requirements. If not for that fact, the lots as proposed would be compliant.

Vice Chairman Whitson invited questions from the Board.
Mr. Kahle asked questions about the drainage and which directions houses would front.
Mr. Kleiberg asked if there would be separate utilities.

PUBLIC: Vice Chairman Whitson opened the hearing to questions from the public of this witness. As there was no one from the public, Vice Chairman Whitson closed that portion of the meeting.

Christine Nazzaro-Cofone, Professional Planner for the Applicant, having previously before the Board was accepted as an expert in Planning. Ms. Cofone provided testimony concerning the variances sought for lot width, the lots more than exceed the minimum lot area required; spoke to the positive and negative criteria, the surrounding neighborhood lots on corners and the application would fit with the character of the neighborhood; sees no substantial detriments to granting the relief and believes the variances can be granted under the c2 variance.

Vice Chairman Whitson invited questions from the Board.
Mr. Kahle asked if she had any other corner lots in the area with similar lot widths. Ms. Cofone advised that there were at least 8-10 lots with the same lot width and one that was even smaller.

PUBLIC: Vice Chairman Whitson opened the hearing to questions from the public of this witness. As there was no one from the public, Vice Chairman Whitson closed that portion of the meeting.

Mr. Alfieri advised that concludes their presentation.

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

Tom Murphy, 18 Pocahontas, thanked the Board for posting documents and site plans on the website. He asked why has the zoning ordinance not been modified to accommodate these type lots as there are similar corner lots along that road. Mr. Kennedy responded that it could be appealed to the Governing Body. Ms. Smith advised that it was on "the list" to be added to an amending ordinance to be requested for the Council's consideration. Mr. Murphy asked if there was any circumstance where such an ordinance would not be approved. Ms. Smith advised that the Board had reserved the option to review because not all lots are the same in size.

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

Vice Chairman Whitson asked for comments from the Board.
Mr. Davis asked that the Applicant salvage any trees possible and try to add trees along Comanche side of properties outside of the Borough's right of way.
Thomas J. Tvrdik, Applicant, was sworn in, and answered that the houses would front on the side streets and would be placed away from Comanche Drive; advised that most of the mature trees on the property have past their time, he had an expert out to assess them and most would come down, he planned to put a nice buffer of brush and landscaping along Comanche; the trees between the subject lots were in great shape and proposed to keep them with the exception of locusts trees leaning toward adjacent property.

Mr. Kahle made a motion to approve the application with the condition that the Applicant salvage any trees possible and provide landscaping buffer along Comanche Drive which would be reviewed further by the Engineer to the specifics.

Motion to Approve with Conditions

RESULT:	**ADOPTED [7 TO 0]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Widdis, Savarese
RECUSED:	Tvrdik

At 7:37 PM, Councilman Tvrdik resumed his seat on the Board.

IX. Old Business:

1. Resolution of Approval - 43 Manitto Place, Cameron

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

RESULT:	**ADOPTED [6 TO 0]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Whitson, Cooper, Foster, Kahle, Davis, Dailey
ABSENT:	Widdis, Savarese
INELIGIBLE:	Tvrdik, Kleiberg

2. PB2020-01 Sempkowski, Anthony

74 Cayuga Ave

Block 27, Lot 9
Bulk Variances
CARRIED from May 11, 2021

Mr. Kennedy asked Ms. Smith if all Board members were eligible to participate and advised yes, members Tvrdik and Cooper had previously certified watching previous hearings to be eligible. Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice but with no one from the public present asked the Applicant to proceed.

Walter Toto, Applicant's Attorney, appeared before the Board, offered no excuses for the numerous delays, recounted the events leading up to that night including meetings with the Project Engineer, the Board Engineer and Mr. Kennedy to review progress on plan revisions; apologized for delays resulting from personal issues with the Applicant's father's health.; while they don't have revised plans to present to the Board that evening, they would eliminate most of the variances needed including changing the orientation of the garage to the front, taking down the retaining wall and doing the required grading, the driveway setback would go away with the change in the garage and driveway. They would like to keep the existing doors in the side wall due to the complexity and costs for removal of the side entry doors. Mr. Toto respectfully requested that the Board provide additional time to finish the plans and was willing to provide new notice – whatever the Board would see fit to grant.

Mr. White, Board Engineer/Planner, was sworn in by Mr. Kennedy. Mr. White commented that they discussed with the Applicant what the Board wanted at the last hearing and the Board's concerns which Mr. White reiterated to them.
Vice Chairman Whitson asked if it was standard practice for that to be outside of a meeting. Mr. White answered as long as the Board Attorney, the Board is protected. Mr. Kennedy added that there were a number of complicated situations such as the improvements have already been built, there's a stop work order, fines and court dates pending or threatened; encroachment of the retaining wall which couldn't be approved. Mr. Toto interjected that there are no court dates pending or with the construction board of appeals. Mr. Kennedy continued that there have been a number of adjournment requests with the expectation that the plans were being prepared.

There was discussion on how long an adjournment they would be requesting, available dates to carry to.
Vice Chairman Whitson asked the Board for comments.
'Mr. Foster expressed concerns that the "can had been kicked down the road" and what guarantees would they have that the plans would be submitted. Mr. Toto responded that the plans as he discussed required a substantive change and it was simply a need for additional time.
Mr. Kleiberg asked if the driveway would be taken care of and was told yes, but the lower driveway would remain. Mr. Kleiberg asked if the electric would be addressed and was told no, the electric would remain. Mr. Toto responded that nothing would be done without JCP&L approval.
Mr. Kahle asked Mr. White regarding his general comment, and because the Board doesn't know what he and Mr. Kennedy discussed about it, asked what about the architectural plans that don't reflect that structure with respect to the front porch, rear porch, side deck. Mr. Toto answered that the front porch would remain and the electric subject to JCP&L approval, the balance would be removed as per the as-built survey.
Mr. Kahle asked about the driveway and aprons will be done correctly, Mr. White answered that was discussed.
Mr. Toto reiterated that it was never his intent to request additional extension. The site plan would be revised but not necessarily the architectural plans – not sure if that impacted the variances.
Robert Siv, Applicant's Engineer, was sworn in and testified that the garage doors on the side are to remain with no driveway access to them; the new garage door at the front of the house would have the garage and u-shaped driveway.
Mr. Tvrdik offered his condolences to the applicant on the loss of his father and commented that he didn't want to get into the design plan but did not think it a good idea to keep the side garage doors even for future use as it might lead to a misconception; requested that start tearing down the retaining wall right away and have some of that work in progress by the time they come back. Discussion ensued. As it appeared there would be an adjournment, asked Mr. Toto if he consented to an extension of the time by which the Board had to act which Mr. Toto agreed to. Ms. Smith noted for the record that the Applicant had previously waived indefinitely the time for a decision. After which a motion to carry to September 14, 2021 meeting was made:

Motion to Carry with Conditions

RESULT:	**ADOPTED [UNANIMOUS]**	**NEXT MEETING: SEPTEMBER 14, 2021**
MOVER:	Patty Cooper, Mayor's Designee	
SECONDER:	Joseph Foster, Environmental Committee Liaison	
AYES:	Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey	
ABSENT:	Widdis, Savarese	

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

XI. Adjournment: As there was no further business, the meeting was adjourned at 8:01 pm on a motion by Councilman Tvrdik which was seconded by Mr. Kleiberg and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary