

**OCEANPORT PLANNING BOARD
MINUTES
July 11, 2017**

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 11, 2017 and by the posting of same on the municipal bulletin board and Borough Web Site."

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mr. Sullivan, Mr. Foster, Councilwoman Cooper, Mr. Savarese, Mr. Kleiberg, Mr. Whitson, Mr. Kahle, Ms. Halpern, Mr. Widdis

MEMBERS ABSENT: Mr. Fichter

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

BOARD BUSINESS:

Ms. Smith reported that she received correspondence from the Monmouth County Planning Board regarding the FM Partners application and lighting issues. She stated that the County recently finished the expansion of Rt. 537 and held a Right of Way (ROW) dedication for the Russel Hall project. This Board was reminded that any application that is adjacent to or abuts a County ROW is subject to County Planning Board approval.

CAPITAL PRESENTATION:

Borough of Oceanport, Capital Program for Municipal Complex.

Mr. DeNoia explained the two components of the Municipal Complex project. The Governing Body is responsible for the property acquisition. The Planning Board is responsible for review and recommendations and determining consistency with the Borough's Master Plan, FMERA's Master Plan and the Vision Plan.

William White, Board Engineer/Planner, was sworn in. Raymond Poerio, Borough Administrator, was sworn in and explained the purpose of the Borough's presentation before the Board this evening.

Mr. Eli Goldstein, Goldstein Partnership, was sworn and presented his qualifications to the Board. Mr. Goldstein provided a package to the Board detailing the existing buildings and proposed future uses for those buildings. He described the planning process for the municipal complex, which will include municipal administration offices, courtroom and court offices, public library, building department, police department, public works offices and recreation/seniors building. He explained the changes and plans for parking lots, addressed noise and recycling bins. Signage will be installed to direct and inform people. There was discussion about the Community Garden, availability of a public meeting space, existing houses on Main St., which are not part of the project, and if FMERA would provide financial assistance for demolition. There was additional discussion regarding employee and public entrances, Razor Ave. and Murphy Dr., DPW equipment storage, the gazebo, boat storage, OEM equipment, lighting, parking, square footage.

Mr. Goldstein provided interior details for the Recreation building, Municipal building with administrative offices, courtroom and library and the Police Department/OEM/DPW/Building Dept. building. Board members asked questions about the Senior card room, furnishings, ADA access for the bathrooms,

parking for seniors, and classrooms in the Senior building. Chairman Widdis expressed concern that there might not be enough parking. Mr. Goldstein deferred to the engineer.

Risa Perlmutter Goldstein, Goldstein Partnership, was sworn. She explained that her focus was on the exterior of the buildings, and the goal was to make the buildings an easily identifiable unit. She discussed adding a skim coat to the buildings, reviewing the buildings for moisture infiltration and signage, roof and fascia material. Mr. Goldstein advised the roof on the Recreation building will be replaced, and described the roofs on the Police and Municipal buildings as in good shape. Ms. Perlmutter Goldstein stated some outstanding items are thermographic imaging and a CAFRA meeting.

Carmela Roberts, licensed professional engineer, presented her qualifications. She explained that her goal was to maximize parking and create a system to allow for easy access. She provided details regarding employee parking, public access to the recycling center, DPW equipment and parking, handicap parking for the library. Parking at the Senior/Recreation building will not change. After the demolition of barracks buildings near the Municipal building, there will be additional parking with curbing and landscaping. She noted the plan significantly decreases impervious coverage. There will be some type of evergreen as a full screen to the houses on Main St. Lighting has not been laid out to date. She described parking at the Police and DPW building. There was discussion regarding vegetation and fencing and shielded lighting to prevent light spillage. There was additional discussion regarding parking ratios and requirements per building. Drainage patterns will not change so there will be no adverse impact on neighbors, and Mr. White confirmed that the buildings are above the 100-year flood plain. There was further discussion regarding parking.

Mr. DeNoia asked Mr. White to provide his opinion regarding the presentation and comment on whether he reviewed the Master Plan, FMERA Master Plan and Vision Plan. Mr. White noted that the Borough's Vision Plan and FMERA's Master Plan propose mixed use; Amendment #6 provided for an overlay. Mr. DeNoia reminded the Board members that their role is to determine if the plan is consistent with the Master Plan and to provide a recommendation to the Governing Body. Chairman Widdis asked for a motion to approve the Municipal Complex project. Mr. Whitson made a motion to approve the project, state the Board's support of the proposal, and stated it was consistent with the Master Plan, good land use and a positive benefit to the citizens of Oceanport, which was seconded by Mr. Kleiberg and received the following roll call:

AYES:	Mr. Whitson, Mr. Sullivan, Mr. Foster, Councilwoman Cooper, Mr. Savarese, Mr. Kleiberg, Mr. Kahle, Ms. Halpern, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Fichter

Ms. Smith stated the motion carried.

At 8:50 PM, the Board adjourned for a 10-minute recess. At 8:57 PM, the Board returned to regular session.

OLD BUSINESS: None

NEW BUSINESS:

1. PB2017-02 Brown, Peter
93 Main Street
Block 110, Lot 6
Request for Bulk Variances and Expansion of Non-conforming Use

CARRIED to September 12, 2017

Chairman Widdis advised the public that the first matter would not be heard this evening. Ms. Smith advised that the attorney for the Applicant requested that the Board accept jurisdiction and carry the application to the September 12, 2017 meeting with no additional notice required in order to prepare additional testimony in response to the Board Engineer's review letter. As there were no objections from the Board, the application was carried to the September 12, 2017 meeting with no additional notice required.

2. PB2017-09 Fiore, Joseph
43 Werah Place
Block 56, Lot 6
Request for variances for construction of new house

A-1 Plot Plan, Block 56, Lot 6, 1 Sheet, prepared by MidAtlantic Engineering Partners, LLC, dated May 15, 2017.

A-2 Aerial Exhibit with Tax Lot Overlay, prepared by MidAtlantic Engineering Partners, LLC, dated

Chairman Widdis recused himself and exited at 8:58 PM. Vice Chairman Whitson assumed the Chair.

Ms. Suzana Hot, Attorney for the Applicant, appeared, gave a description of the application to be presented and called the first witness, Applicant Joseph Fiore. Mr. DeNoia stated for the record that service had been reviewed, was in order and the Board had jurisdiction.

Joseph Fiore, Applicant and Owner, was sworn in and provided testimony as to his desire to construct a single-family house. He also expressed his desire to live in Oceanport, having been raised in Oceanport and much of his family currently residing in Oceanport. He explained he plans to build an apron house on the vacant lot.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for questions for this witness only. As there was no one from the public who appeared to be heard, Vice Chairman Whitson closed that portion of the hearing.

Kevin Shelly, Professional Engineer for the Applicant, was sworn, presented his qualifications and was accepted by the Board as an expert in engineering. Mr. Shelly introduced Exhibits **A-1** and **A-2** and provided testimony related to the property's characteristics and description of the variances being sought for minimum lot width, minimum lot area, minimum rear yard setback, combined side yard setback, maximum building coverage, and average front yard setback. Mr. Shelly also reviewed the Board Engineer's letter dated June 26, 2017 and testified that the Applicant would comply with Mr. White's comments. Mr. Kahle asked about drainage. Mr. Shelly stated there was an existing yard inlet that collects runoff, and there is no proposal to change the drainage patterns. Mr. White stated one of his requirements was that runoff from the impervious coverage runs to the street.

Mr. Foster asked if any attempt had been made to purchase property from the adjacent property owners to make the lot more conforming. Mr. Fiore appeared and responded that no he had not. Mr. White asked Mr. Fiore what the size of the lots to the left and right were, and they are also non-conforming. Mr. Kahle asked additional questions regarding drainage. Mr. White stated additional spot grades are needed to define the drainage pattern.

Vice Chairman Whitson asked how many variances total; Mr. Shelly replied 5. Vice Chairman Whitson asked if the house could be smaller to eliminate a variance. Mr. Fiore explained he has several cars and would want to park them in the driveway.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for questions for this witness only.

Donna Natale, 38 Werah Place, asked how the drainage issues existing would be addressed. Mr. Shelly responded that the development is designed to not send any runoff to neighboring properties and explained how the design will move the water to the rear of the property. Mr. White asked if a small landscape berm would assist with the runoff. Mr. Shelly said it could be done.

As there was no one else from the public who appeared to be heard, Vice Chairman Whitson closed that portion of the hearing.

Christine Nazzaro Cofone, Professional Planner, was sworn, presented her qualifications and was accepted by the Board as an expert in planning. Ms. Cofone testified that she visited the site, reviewed the application submission documents, Mr. White's review letter, the Master Plan and zoning ordinance. She explained there were two existing conditions and the adjacent properties are developed and also undersized. She stated the Board could approve variances under either C1 or flexible C. The undersized nature of the lot as well as the inability to cure it is a foundation for a C1 variance. The lot is consistent with the character of the area. She discussed the minimum habitable floor area, side yard setback, MOD4 tax data, rear yard setback for the deck, and building coverage. She testified about Criteria E, G, and I of the Land Use Law. She opined that the Application meets the statutory burden of proof for the granting of C variances and is not out of character with the area or the Master Plan. Mr. White asked how many undersized lots in the area were 75 sq. ft. or less. Ms. Cofone testified there are many lots smaller than the Applicant's; on Werah, there are 5 non-conforming lots.

Mr. Foster asked for clarification on coverage, if that included the garage. Ms. Cofone stated the garage is not included as habitable floor area. Mr. Foster had additional questions comparing the Applicant's footprint with the footprint of the neighbor to the east. Ms. Cofone stated Mr. Fiore's calculation shows the property to the east is larger than his footprint. Mr. Kleiberg asked questions regarding automobiles on the property and noise. Mr. Fiore does not work on the vehicles. Mr. Kleiberg had additional questions regarding moving the building 2 feet. Mr. Fiore returned and stated that he worked very hard on the plans. Mr. Savarese asked if the rear deck could be made into a terrace to reduce the building coverage. Mr. Fiore indicated he could do that. Mr. White noted that change would increase impervious coverage and preferred non-impervious coverage. There was discussion regarding flood elevation, storage room, the number of bedrooms, a rear garage door, and venting the crawl space. Vice Chairman Whitson stated for the record that he would term 3 variances as hardship, but the other 2 are by choice.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for questions for this witness only. As there was no one from the public who appeared to be heard, Vice Chairman Whitson closed that portion of the hearing.

Jamie Pavlis, Licensed Appraiser was sworn in and presented his qualifications and having previously appeared before this Board was accepted as an expert in appraising. Mr. Pavlis testified that he has visited the site, the lot size is typical for the neighborhood, out of the 15 lots on Werah, 70 percent are undersized, non-conforming properties and frontage. He stated the proposal is typical of new construction in the area and will have a positive impact on property values in that area.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for questions for this witness only.

Stuart Briskey, 46 Werah Place, asked what the market value of the 75 x 100 ft. vacant lot was. Mr. Pavlis opined between \$100,000 and \$150,000. There was discussion between Mr. Briskey and Mr. Pavlis regarding the number of two-story houses in the area. Mr. Briskey discussed the rebuilding after

Superstorm Sandy. Mr. Pavlis stated 6 of 8 houses on Werah between Itaska and Shrewsbury are on undersized lots.

As there was no one else from the public who appeared to be heard, Vice Chairman Whitson closed that portion of the hearing.

Mr. Tucci advised that in discussions with his client, they will revise the house to meet the combined side yard setbacks. Mr. Tucci stated the house would be narrowed by 2 ft.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for statements on the application.

Patricia Stephens, 45 Werah Pl., was sworn in and objected to the construction of the house including the house being too big, the proposal makes lots appear smaller, sits too close to the neighbors and will set a precedent for larger homes on smaller lots.

Stuart Briskey, 46 Werah Pl., appeared. There was an extensive discussion regarding the requirement and policy of being sworn between Mr. Briskey, Mr. DeNoia, an audience member, Karen Boylan, Esq. and Mr. Tucci. Ms. Smith read the pertinent portions of the Bylaws. Mr. Briskey was sworn in and gave statements including the presence of Chairman Widdis who had recused himself from the matter was still in the room, the Applicant's notice was stamped 6/29/2017 and received 7/1/2017, during the July 4th holiday weekend when many people take vacations and go away, the hours of availability for plan inspection did not reflect the correct schedule for Borough Hall, and Borough Hall was closed July 3rd and 4th. Mr. Briskey had requested a copy of the 200' list of residents dated April 11, 2017, and asked for verification that was the list used. Mr. Tucci replied that was the list used with one additional neighbor, a new purchaser named Beth Cameron. He stated the notice of June 29 was issued because residents had received a notice a few days earlier from the Planning Board Office and administrators. Mr. Briskey stated 41 Werah Pl. was also sold and asked if the new owners were notified. Ms. Smith stated the Applicant is only required to send to those certified, and that was the list supplied by the municipality. It is not the responsibility of the Applicant or the Borough to see if the deed is updated. That is the County's responsibility.

Mr. Briskey disagrees with all variances, 20 pounds of potatoes in a 5-pound bag, 2 story houses would be out of character for the neighborhood. He stated 43 Manitto was his mother's property and was attached to this lot. Fiore Paving purchased the lot and somehow the lot became Mr. Fiore's. It was Mr. Briskey's opinion that those lots merged years ago. He believes the Board has to research and express an opinion if those lots merged. He stated the property went back and forth between his family members and this lot was 43 Manitto's back yard and had a pool, fences, a shed. He challenged the Board that those properties are merged. Ms. Hot explained that there is case law that the 2 lots were not merged because they were not adjacent to each other, but back up to each other, front on two different streets, separate block and lot numbers, separate tax bills ever since Mr. Briskey's family owned them. She stated however the lots were used is a different matter, but for the purposes of the Board and this application, they have always been considered 2 separate lots. Mr. Briskey stated they were always in the Briskey family and maintains that the lots are merged. He suggested the Board review their decision on lots merged on Monmouth Blvd. and review this application as a merger. Mr. DeNoia responded, saying the Board has no obligation to conduct research. It is the Board's responsibility to deal with the application as presented. Mr. Briskey was entitled to conduct his own research and present it to the Board.

Mr. Briskey stated he will put that together. His point is the short notice and lack of time to find the deeds of the property passing through the family. Mr. Tucci replied that there is a seminal case regarding the merger rule, which states if there are abutting lots on 2 separate roads, as opposed to the lot on Manitto Pl., that is an exception to the merger rule. Mr. Tucci stated the notices were proper and

the case law in NJ is clear that an undersized lot that abuts a conforming lot on 2 separate roadways does not merge. Mr. Briskey disagreed and will provide the information to the Board.

Karen Boyle, Esq. was sworn and stated that she was at the meeting with Noel Kelly, 245 Monmouth Blvd., whose application for merger was denied by the Board and that case is presently in Superior Court. She asked how this situation is different from Mr. Kelly's. Mr. Tucci stated this lot is an exception to the merger rule because it fronts on separate streets. Ms. Boyle stated the Board has a lot to consider and needs more information.

Steven Briskey, 81 Manitto Pl., was sworn and stated he has power of attorney for Lillian Briskey, who sold the property. He stated the properties are separate and distinct properties. Mr. Briskey testified that he has the deed for the property known as 43 Werah Pl.

As there was no one else from the public who appeared to be heard, Vice Chairman Whitson closed that portion of the hearing.

Mr. Kleiberg asked Mr. Tucci to confirm that the building would be reduced to eliminate the side yard setback variance, which he confirmed. Mr. Kleiberg asked what impact that had on the maximum building coverage. Mr. Tucci did not have the calculations, but confirmed that it will lower the maximum building coverage. Mr. Foster commented that several ranches on his street were raised, even though they were not impacted by Sandy.

Patricia Stephens, 45 Werah Pl., asked if the Board realized it was opening a Pandora's box by allowing large houses on small lots. She expressed concern that it would look like a bungalow town and stated it's not a good idea. Mr. DeNoia advised each application stands on its own merits.

Councilwoman Cooper asked for clarification on the square footage of the house and the square footage of the footprint and the sizes of homes on either side. The house on the east is 2160. Councilwoman Cooper asked the homeowners their square footage. Mr. Foster stated the Board expects 2700 sq. ft. to be accurate, but that is not indicated on any of the exhibits. He asked for a drawing with the appropriate square footage. Mr. Tucci stated the plans will be modified because the size of the house is reduced by 80 sq. ft., meaning an approximate size of 2,620 sq. ft. Mr. Kahle asked what the frontage of the neighboring properties. Mr. Shelly stated the house to east is 75 ft. wide; the west is 100. Ms. Hot found that the house to the west was 1624 sq. ft.; the east is 2440.

Mr. Foster made a motion to approve the application for the construction of a single-family home with variances for minimum lot area, 12,000 sq. ft. required, existing 7500; minimum lot width, 120 ft. required, existing 75 ft.; elimination of the variance for the combined 25 ft. side yard setback; and approve maximum building coverage, 25% required; 28.2% proposed; no increase in flooding incorporated in the drawings with a berm; no increase in stormwater runoff, which was seconded by Mr. Sullivan and received the following roll call:

AYES:	Mr. Sullivan, Mr. Foster, Mr. Savarese, Mr. Kleiberg
NAYES:	Councilwoman Cooper, Mr. Kahle, Ms. Halpern, Mr. Whitson
ABSTAIN:	None
ABSENT:	Mr. Fichter, Mr. Widdis

Ms. Smith stated the motion failed.

Mr. Savarese wants new plans submitted to show the correct square footage, meeting the combined side yard setbacks; correct crown of the road and corrected calculations for building height. Mr. Kahle voted against approval because there was too much lot coverage. Ms. Halpern voted against approval because it was too much lot coverage and the Applicant's reluctance to modify the plans. Mr. Whitson

voted against approval. While he complimented the Applicant for eliminating the combined side yard setback, he was concerned that the house was too large and about the lot merger.

For clarity of the record, Mr. DeNoia asked for a motion to deny the application, which was made by Ms. Halpern based on her previously stated concerns, which was seconded by Mr. Kahle and received the following roll call:

AYES:	Councilwoman Cooper, Mr. Kahle, Ms. Halpern, Mr. Whitson
NAYS:	Mr. Sullivan, Mr. Foster, Mr. Savarese, Mr. Kleiberg
ABSTAIN:	None
ABSENT:	Mr. Fichter, Mr. Widdis

There was discussion regarding the tie and if the second motion was necessary. Mr. DeNoia advised the Board could withdraw the second motion and leave the decision on the original motion, which was made by Ms. Halpern, seconded by Mr. Savarese and approved by the Board. Ms. Smith stated the motion carried.

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.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 10:36 p.m. on a motion by Mr. Foster which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary