BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● JUNE 28, 2022

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

910 Oceanport Way, Oceanport, NJ 07757

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

II. Open Public Meetings Statement: This meeting complies with the Open Public Meetings Act by adequate and electronic notification on January 20, 2022 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.

III. Flag Salute: Chairman Whitson led attendees and members of the Board in the flag salute.

IV. Board Policy: Chairman Whitson advised of the following Board policies: It is Board Policy that no application will be opened after 10:00 P.M.; no new testimony will be taken after 10:30 P.M., except at the discretion of the Board.

V. Roll Call:

Attendee Name	Title	Status	Departed
James Whitson	Chairman	Present	
John (Jack) Kahle	Vice Chairman	Present	
Patty Cooper	Mayor's Designee	Present	
Thomas Tvrdik	Class III	Present	08:28 PM
Joseph Foster	Environmental Commission Liaison	Present	
Christopher Widdis C	Class IV	Present	
Robert Kleiberg	Class IV	Absent	
Darren Davis	Class IV	Present	08:28 PM
Michael Dailey	Class IV	Present	
Leslie B Widdis L	Alternate I	Present	
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 that 144 Monmouth Blvd would continue at the July 12, 2022. There are 2 applications being reviewed for completeness and would likely be scheduled for the August meeting.
2. PRESENTATION: Area in Need Study for District A and Warehouse Parcels, FM Reuse Plan

Matthew Jessup of McManimon Scotland/Borough Redevelopment Counsel and Elizabeth Leheny of Phillips Preiss Grygiel Leheny Hughes LLC, Planner for FMERA. Mrs. Leheny, preparer of the Study report, briefed the Board on the results of the study, building types, building details, poor use of space compared with what is on the market today, damages, deterioration, dilapidation, faulty arrangement and no use for at least 10 years meet the criteria for B under the standards of the Redevelopment Law. She discussed the buildings that have been demolished still meet the criteria under Section 3 as there are remnants of the buildings including foundations and were taken down due to public health issues. She provided an analysis of the original report done in 2020 and the updated report completed in 2022, explained the criteria for Section 3 and how the demolished buildings met the criteria.

Chairman Whitson invited comments from Mr. White and Board members.

Mr. White had no comments. Ms. Cooper had no comments.

Councilman Tvrdik commented that the Governing Body is in support of this area in need designation, understands that 2 of the areas have already been heard by the Board and this process simply provides the developer with an opportunity to negotiate financial agreement with the Borough.

Mr. Widdis asked questions about the process and the appearance of doing it out of order. Mr. Jessup responded that the initial referral by the Borough was made in December 2021 and the history between FMERA's authorization for the Study and when the Borough determined they wanted to move forward.

Ms. Barham-Widdis asked her own procedural questions of the process which Mr. Jessup explained in more detail including the next steps which will entail a Redevelopment Ordinance.

Mr. Foster asked were there any implications of the previously approved variances from this process. Mr. Jessup responded that the variances granted wouldn't be impacted unless the redevelopment plan adopted through this process is inconsistent with the variances. There are no inconsistencies anticipated as the redevelopment plan is the plan amendment but if there are it would be something Mr. Kennedy would have to review.

Ms. Smith read the Affidavit of Publication of notice of the public hearing in the Two River Times newspaper on June 9, 2022 and June 16, 2022 in accordance with law.

3. PUBLIC HEARING: Chairman Whitson opened the meeting to the public for questions or comments on the Area in Need Study for Block 110.13, Lot 1 and Block 110.14, Lot 1. As there was no one from the public appearing, Chairman Whitson closed the public hearing.
4. Board Discussion and Recommendation. Discussion ensued concerning the criteria for declaring the subject site as an area in need, the challenge if there was nothing on the site to defend for an area in need. Mr. Jessup elaborated on the redevelopment law criteria that the site does not necessarily have to have structures on it. The subject site met 3 of the criteria in the 2020 report and the 2022 report updates for the demolition to the foundation of some structures and concludes that the site still meets 2 of the criteria. Mr. Davis commented that the recommendation is not a commitment by the Board but permits a redevelopment plan to be prepared. Mr. Jessup stressed that this first step is only for a recommendation by the Board to the Governing Body and that it is incumbent upon the Governing Body to determine and declare the properties formally as an area in need. Mr. Jessup also answered questions regarding the statement that it was for a non-condemnation redevelopment which means that the power of eminent domain cannot be used in connection with the redevelopment.
5. **PR-22-20** Resolution Recommending Block 110.13, Lot 1 and Block 110.14, Lot 1 as an Area in Need of Redevelopment

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

VII. Approval of Minutes:

1. Planning/Zoning Board - Regular - Apr 12, 2022 7:00 PM

RESULT:	**ACCEPTED [7 TO 0]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Darren Davis, Class IV
AYES:	Whitson, Kahle, Cooper, Tvrdik, Foster, Widdis C, Davis
ABSTAIN:	Dailey, Widdis L
ABSENT:	Kleiberg

VIII. Old Business:

1. PB2022-03 Dalton, Edward, 23 Ithaca Ave

Ms. Smith advised the Board of the approval of this application earlier in the year for installation of a pool and variance for maximum impervious coverage. Referring the Board to the provided copy of the approved plan and property survey, described the pre-existing picket fence along the front yard and the Zoning Officer's advisement that on-site inspection showed the fence at 4.5' in height where 4' permitted and requested clarification that the approval included the fence height. The plan only shows that the fence will be pool code compliant. Discussion ensued. Councilman Tvrdik commented that Mr. Johnson has previously advised the Board that he doesn't require current owners to obtain variances for pre-existing non-conforming structures, this Board has approved 6' solid fences in front yard, he's ok with this fence and his opinion that the Dalton's don't need to come back. Mr. Kennedy commented that in the midst of applications the Board adds variances for other items which wasn't done on this one; 1) options are to make them return; 2) recognize that there was no one to oppose, the applicant didn't install the fence and wouldn't be efficient to make them return so the Board would recognize it as pre-existing non-conforming fence with no variance so that if it is removed in the future it couldn't be put back unless conforming or seek the variance. Mr. Kennedy's opinion that it is not a notice issue. The Zoning Officer is seeking clarification. Board consensus was that the fence as pre-existing does not need to seek a variance unless it is removed, replaced or variance sought for it.

2. PB2019-22.1 Fort Partners Group
1600 Avenue of Memories
Block 110.06, Lots 1, 3
Request for Amended Site Plan for Additional Parking Variance

EXHIBITS:
A-1 Land Development Application
A-2 Plans entitled "Preliminary and Final Major Site Plan Fort Monmouth Fitness Center", prepared by Kennedy Consulting Engineers, LLC, last revised June 2, 2022, and consisting of two (2) sheets; (sheets 1& 2 of 10).
A-3 Plan entitled "Topographic Survey Map for Property Known as Fort Monmouth Fitness Center," prepared by Yorkanis & White, Inc., last revised September 9, 2019, consisting of two (2) sheets.
A-4 Colliers Engineering & Design Review Letter, June 28, 2022

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice, hearing no objections, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3.

The following person(s) were sworn in: William White, Board Engineer/Planner

Michael Bruno, Attorney on behalf of Fort Partners Group, described the application to amend the approved site plan, the history of the site, the variances previously approved for parking on the site allowed 172 parking spaces where 189 were required; the Applicant's proposal to convert storage space to a physical therapy office use which has an increased parking demand and they are seeking a variance to allow 172 parking spaces where 195 spaces are required for the conversion of the storage space. There is a parking agreement with FMERA for an additional 100 spaces at the site next door so they believe that there is ample parking for the site and this technical change does not impact operations from what was previously approved but requires a slightly more significant variance for parking then was obtained. Scott Marchikitus, principal and Applicant Engineer Jim Kennedy are available for any questions.
Chairman Whitson invited questions from Mr. White and Board members.
Mr. White asked about the parking agreement with FMERA and what was the term of the agreement for the extra spaces. Mr. Bruno responded that he did not recall any termination date.
Councilman Tvrdik spoke with Kara Kopach at FMERA and the shared parking is part of the mega-parcel which is not expected to close for 4-5 years out. There are 2 buildings on that site are stated to be torn down which will provide for additional parking.
Mr. Foster asked about the 10 unmarked spaces to the south of the tower and what were the status.
Mr. James Kennedy, Engineer, was sworn in and previously qualified by this Board, testified that when the parcel was subdivided from the main post, the boundary line went around those spaces and were technically on-street off-street parking stalls – 26 in total that they cannot technically count them. Those spaces were not part of the sale but were part of the shared parking agreement with FMERA. Mr. Kennedy added that there are also 14 stalls on Nicodemus that are not striped that could be striped and utilized.
Mr. Davis asked when the soccer field was being constructed as that would impact parking.
Scott Marchikitus, Principal of Fort Partners Group, was sworn in and testified that they were unable to find a vendor to plant it last Fall and they are meeting with another landscaper to do it this Fall.
Mr. Widdis asked about operating hours and the demand time being opposite of the gym.
Mr. Marchikitus also advised the Board that the water tower was scheduled to be painted but has been delayed due to an active osprey nest and will resume in September.

PUBLIC: Chairman Whitson opened the meeting to questions and comments from the public. As no one from the public appeared, Chairman Whitson closed that portion of the meeting.

Motion to Approve Application

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Darren Davis, Class IV
SECONDER:	Michael Dailey, Class IV
AYES:	Whitson, Kahle, Cooper, Tvrdik, Foster, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Kleiberg

At 7:59 PM, Mr. Dailey recused himself from the next matter and exited the meeting.

IX. New Business:

1. PB2022-12 Verdi, Edward & Tanya
20 Balmer Court
Block 65, Lot 1.01
Proposed installation of an in-ground pool in secondary front yard where pools are not permitted in front yard.

EXHIBITS:
A-1 Land Development Application
A-2 Plans entitled "Plot Plan and Grading & Drainage Plan for Construction of Inground Swimming Pool," prepared by William F. Voeltz, P.E., last revised June 12, 2022, consisting of one (1) sheet.
A-3 Plans entitled "Final As-built Survey" prepared by InSite Surveying, LLC, dated July 14, 2021, consisting of one (1) sheet.
A-4 Colliers Engineering & Design Review Letter, June 17, 2022

The following person(s) were sworn in: William White, Board Engineer/Planner

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice, hearing no objections, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4.

John Poulos, Attorney for the Applicant, appeared and described the application to install an in-ground pool and shed on the subject property which has a unique shape in that it has two front yards and are seeking variance relief for accessory structures in the front yard.
William Bolts, Professional Engineer & Planner, was sworn in, provided his qualifications and was accepted as an expert in both fields. Mr. Bolts testified that he had prepared a Plot Plan, Grading & Drainage Plan for the applicant (A-2) indicating the proposed location of the in-ground pool, shed, pool equipment to be mounted on platform at elevation 12.4. He further testified that the shed had no habitable space. Mr. Bolts also testified that the property has 3 front yards making it difficult to do much with the property because of the front yard restrictions. Mr. Bolts also testified that it was his opinion that the variance relief could be granted under the C2 without any detriment to the neighborhood or zone plan.
Mr. White asked questions and clarified the relief was for pool and shed and commented that FEMA requires it be noted that the pool equipment be elevated and that there would be no outdoor lighting.
Chairman Whitson invited questions from the Board.
Councilman Tvrdik asked if there were any plans to provide landscape buffering or any future privacy that will shadow the shed and pool from the street view.
Edward Verdi, Owner/Applicant, was sworn in and testified yes, he had planted 50 green giants along the back as they didn't want a variance for a 6' fence and installed a compliant fence.
Mr. Foster asked if there was two different fences. Mr. Verdi testified yes, there are 2 types – chain link along the rear and sides for pool compliant and in the front is aluminum.
The shed will have no more than 20 amps service to the shed and no other utilities.
Mr. Kahle asked if lot coverage was ok which Mr. White confirmed yes. No other walkways are planned.
Mr. Widdis asked if there would be lighting? Mr. Verdi answered there was already outdoor lighting in the house soffits and only 1 light in the pool. There will be a heater for the pool.
Chairman Whitson asked what was the height of the shed. Mr. Verdi responded less than the 15'permitted.

PUBLIC: Chairman Whitson opened the meeting to questions and comments from the public. As no one from the public appeared, Chairman Whitson closed that portion of the meeting.

Motion to Approve Application

RESULT:	**ADOPTED [8 TO 0]**
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Vice Chairman
AYES:	Whitson, Kahle, Cooper, Tvrdik, Foster, Widdis C, Davis, Widdis L
ABSENT:	Kleiberg
RECUSED:	Dailey

At 8:20 PM, Mr. Dailey re-entered the meeting.

2. PB2022-14 Murphy, Joyce
34 Iroquois Ave
Block 8, Lot 2
Seeking to construct an expansion of existing front landing to a covered porch. Proposed setback of 21.2 feet does not comply.

EXHIBITS:

A-1 Land Development Application
A-2 Plan entitled "Survey of Property", prepared by Charles V. Bell Associates, Inc. last revised March 9, 2022, (1) sheet
A-3 An undated and unsigned Architectural floor plan, (1) sheet.
A-4 Colliers Engineering & Design Review Letter, June 8, 2022

The following person(s) were sworn in: William White, Board Engineer/Planner

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice, hearing no objections, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4.

Ronald Catelli, Attorney for Applicant, appearing and described the application by the Applicant, owners since Sept,. 2021, to convert previous uncovered 4'x 4' porch and construct a covered 6'x15' porch that seeks variance relief for a front yard setback of 21.2' where 24' is required. Jared Murphy, owner, is a retired police officer from Oceanport who is now suffering from Parkinson's disease and the porch will be ADA compliant.

Charles Farkouh, Applicant's Contractor, was sworn in.

Mr. Catelli addressing Mr. White's review letter, stated that it appears Mr. White's only concern was the grading of the front yard be maintained. Mr. Catelli stated that Mr. and Mrs. Murphy have authorized him to assure the Board and elucidate before the Board that the yard grading will be maintained.

Chairman Whitson invited questions and comments from Mr. White and Board members.

Mr. White stated for clarification the front yard setback requirement is 30', the ordinance permits porches to extend 6' into the front yard setback.

Mr. Kennedy asked if it is difficult for the applicant to maneuver through the house which Mr. Catelli answered yes, and handrails will make it exponentially easier.

Mr. Davis asked if would be enclosed or only covered which Mr. Farkouh testied was only a covered porch.

Mr. Kahle asked if there was an ADA ramp. Mr. Farkouh testified that they were constructing the ramp around to the rear. The front porch expansion will allow Mr. Murphy to be able to turn around.

Mr. Foster asked if there would any drainage for the porch. Mr. Farkouh testified it would have a roof and gutters to direct rainwater.

Councilman Tvrdik stated the porch and the ramp would permit Mr. Murphy use with a wheelchair should that time ever come and was confirmed yes.

Ms. Cooper asked if there was a railing on the front porch steps and was told no, as it is less than 30".

PUBLIC: Chairman Whitson opened the meeting to questions and comments from the public. As no one from the public appeared, Chairman Whitson closed that portion of the meeting.

Motion to Approve Application

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Thomas Tvrdik, Class III
AYES:	Whitson, Kahle, Cooper, Tvrdik, Foster, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Kleiberg

3. **PR-22-21** Resolution of Approval - 34 Iroquois Ave

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOVER:	Joseph Foster, Environmental Commission Liaison
SECONDER:	Christopher Widdis C, Class IV
AYES:	Whitson, Kahle, Cooper, Tvrdik, Foster, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Kleiberg

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

At 8:28 PM, Board members Tvrdik and Davis recused themselves from the next matter and exited the meeting.

XI. Executive Session:

At 8:29 PM, the Planning Board entered Executive Session on a motion by Chairman Whitson, seconded by Ms. Cooper:

PR-22-21 Resolution Authorizing an Executive Session, June 28, 2022

Litigation, Negotiations and the Attorney Client Privilege N.J.S.A. 10:4-12(b)(7)
Pending Litigation, Veltri vs. Oceanport Planning Board

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

At 8:47 PM, the Planning Board resumed the regular meeting on a motion by Ms. Cooper, seconded by Ms. Barham-Widdis and approved by the Board with all previous members present.

XII. Adjournment:

As there was no further business, the meeting was adjourned at 8:47 pm on a motion by Mr. Dailey which was seconded by Mrs. Barham-Widdis and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary