



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • JUNE 23, 2020

Regular

Maple Place School

7:30 PM

2 Maple Place, Oceanport, NJ 07757

- I. **Call to Order:** Chairman Widdis called the meeting to order at 7:30 p.m.
- II. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by notification on January 15, 2020 of this location, date and time to the Asbury Park Press and the LINK News and by the posting of same on the municipal bulletin board and Borough Web Site. This meeting further complies with the Open Public Meetings Act by notification on June 5, 2020 of this virtual/remote meeting, its location, date and time, and URL address at which to participate in the meeting to the Asbury Park Press, Star Ledger and the LINK News and by the posting of same on the municipal bulletin board and Borough Web Site. Chairman Widdis then read the virtual/remote meeting advisory advising the public how to attend and participate during public portions of the meeting as detailed on the meeting agenda.
- III. **Flag Salute:** Chairman Widdis led attendees and the members of the Board in the flag salute
- IV. **Roll Call:**

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

V. **Board Business:**

1. Planning/Zoning Board - Regular - Apr 28, 2020 7:30 PM

RESULT: ACCEPTED [9 TO 0]
MOVER: James Whitson, Vice Chairman
SECONDER: Patty Cooper, Mayor's Designee
AYES: Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Savarese, Kleiberg, Davis
INELIGIBLE: Dailey, Rue

2. Planning/Zoning Board - Regular - May 26, 2020 7:30 PM

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

3. Update on Pending Applications - *Added*

Ms. Smith advised the Board that a request had been made that members have access to plans for upcoming applications more in advance of the agenda package. If there were no objections by the Board she would make it a regular update for each meeting of the upcoming applications and the availability of documents for which there were no objections.

Ms. Smith then advised the Board of 3 upcoming applications for 10 Hiawatha Ave, 8 Burnt Mill Circle and 74 Cayuga Ave and that application documents were available on the Borough website on the Planning Board page.

4. Correspondence - *Added*

Ms. Smith advised that the Board was in receipt of correspondence from Mr. Rick Brodsky, the Attorney that represented the Market on Main Street LLC application which received site plan approval back in 2017 for the old village center site where Circle K is located. Mr. Brodsky was seeking an extension of the site plan approval. Ms. Smith would gather documents from the approval and prepare for the next meeting for consideration.

VI. Old Business:

1. Resolution of Approval - Bonforte, John, 109/111 Horseneck Point Rd

Chairman Widdis advised that this item was being held as the Board was awaiting additional information to complete the resolution.

2. Resolution of Approval - Parker, Charles - 397 Port Au Peck Ave

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

Motion to Approve PR-20-22

RESULT:	ADOPTED [9 TO 0]
MOVER:	Thomas Tvrdek, Class III
SECONDER:	Michael Savarese, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdek, Foster, Kahle, Savarese, Kleiberg, Davis
INELIGIBLE:	Dailey, Rue

At 7:50 pm Councilman Tvrdek recused himself from the next matter as did Ms. Cooper (Mayor's Designee) as the variance being sought was technically a "d" variance for a Board of Adjustment. Mr. Savarese also left the meeting due to conflict with the next application.

3. PB2020-08 MSA at 64 Main Street LLC

Carried from May 26, 2020

64 Main Street

Block 116, Lot 25

EXHIBITS:

- A-1 Land Development Application
- A-2 Zoning Denial Letter dated February 5, 2020
- A-3 Maser Consulting Review Letter dated April 9, 2020
- A-4 Plans, 6 Sheets, prepared by Michael Savarese Associates, last revised April 8, 2020
- A-5 Survey of Property, prepared by Thomas Santry P.A., dated October 22, 2020
- A-6 Site Plan Comparison, prepared by Michael Savarese Associates, dated July 25, 2019, last revised May 18, 2020
- A-7 Site Plan, prepared by Michael Savarese Associates, dated July 25, 2019, last revised June 9, 2020

- A-8 Floor Plan Comparison, prepared by Michael Savarese Associates, dated July 25, 2019, last revised June 9, 2020
- A-9 Neighborhood Multi-Family Properties, prepared by Michael Savarese Associates, dated July 25, 2019, last revised June 9, 2020
- A-10 Correspondence, prepared by Michael Savarese Associates, dated June 9, 2020.
- A-11 Maser Consulting Review Letter dated June 15, 2020
- A-12 Neighborhood Multi-Family Properties, prepared by Michael Savarese Associates, dated July 25, 2019, last revised June 23, 2020
- A-13 Exist'g & New Plan Comparison, prepared by Michael Savarese Associates, dated July 25, 2019, last revised June 23, 2020
- A-14 Before and After Photographs, prepared by Michael Savarese Associates, dated July 25, 2019, last revised June 23, 2020

William White, Board Engineer/Planner was sworn in for the record.

Mr. Tilton commented that the applicant is one of the Board members and reminded Board members at the last meeting Mr. Kennedy asked of all Board members if they were capable to be neutral and impartial about the application and that all participating tonight has been the case but if not they should recuse themselves.

Mr. Tilton then described and entered for the record Exhibits A-6 through A-11.

Rick Brodsky, Attorney for Applicant, described the application to renovate an existing residential structure which existed and convert an illegal two-family to a legal two-family. The site is located in the R-5 which permits both single and two-family residential use. They are requesting relief for a permitted use that requires variance relief for density where 6.3 permitted and 12.3 units per acre are proposed which due to the undersized lot requires a "d" variance. Mr. Brodsky summarized the additional variances including minimum lot size and minimum lot width and impervious coverage. The impervious coverage variance is driven by the proposal to relocate the parking from the front of the lot, basically the front yard, and move it to the rear of the dwelling which requires a driveway that travels the length of the property. Relief is also being sought for side yard setback for the existing driveway which is right on the property line. A letter was submitted by that neighbor requesting that the driveway be left unchanged because she's been very set with respect to drainage and has no use of that property. Relief is also sought for minimum habitable floor area per family. Mr. Brodsky furthered his statement with background on the project and to clarify a couple of things from the last hearing: the zone does permit a two-family use so the applicant is for a permitted use; at the time the applicant purchased the property there was a small efficiency apartment and a larger apartment however did not have Certificate of Occupancy for a 2-family; the applicant subsequent to the purchase performed significant renovations to both interior and exterior including opening up an enclosed front porch and moving the parking situation from the front yard to the rear; initially plans were only submitted to renovate the existing structure into a legally compliant 2-family; on November 22, 2019 – a month after the purchase – a zoning permit was issued for the renovation the existing structure into a 2-family home; then in February 5, 2020 a mistake came to light regarding a footnote of the bulk schedule that requires 14,000 s.f. lot area, not 7,000 and the Zoning Officer advised that the owner needed to go to the Board for variance; at that point when it was determined in February, the Applicant re-evaluated the plan in order to redesign the parking that would require variances because they were going to the Board anyway.

Mr. Brodsky continued that after the April meeting they took the feedback from the Board members of some concerns and revised the plan with respect to the interior renovations – originally proposed 2 apartments, 1 with 3 bedrooms and the other with 2 bedrooms; the revision reduced the request to 2 apartments both with 2 bedrooms.

Chairman Widdis asked if any of the Board members had questions for Mr. Brodsky regarding the recapped information.

Mr. Kleiberg asked why a stop work order was not issued after the last meeting and where are the permits that they were going to submit after the last hearing. Mr. Brodsky responded that they had the permits with them and they would scan and put up on the screen.

Mr. Davis commented that he didn't think the point was to discuss permits but figure out if the property was compliant. Mr. Brodsky responded that it was ancillary but because it came up at the last meeting he wanted to address it.

Michelle Del Vecchio, Professional Architect, was sworn in for the record, provided her background and qualifications and was accepted by the Board as an expert in architecture.

Ms. Del Vecchio, displayed on the screen Exhibit A-6 which provided a comparison of the site as purchased and the proposed plan which keeps the existing footprint the same and provides for the parking at the rear of the home which is more sightly then in front of the dwelling; she next displayed A-7 and described the revisions proposed to the drafted site plan which reduced the bedroom counts to 2 BR in each apartment which reduces the required number of parking from 4 to 3 and thereby the impervious coverage 56.67% to 49.05% ; she next displayed Exhibit A-8, Comparison of Floor Plans existing and proposed that illustrates the 2-bedroom design for the rear unit; she next described and displayed Exhibit A-9 which illustrated the neighborhood's 11 multi-family properties and those on non-conforming lots; she next described Exhibit A-12 which detailed neighborhood multi-family properties with CO as a 2-family properties; she next described Exhibit A-13 which compared the floor plan prior to renovations with the differences in the proposed plan highlighted shows where the rear unit was changed to a 2-bedroom from a 3-bedroom with no changes to the other unit. Ms. Del Vecchio described and displayed Exhibit A-14, photographs of the pre-renovation and post-renovation.

Chairman Widdis asked her to describe the driveway changes in greater detail.

Ms. Del Vecchio displayed the Site Plan comparison and explained that when the design reduced the number of bedrooms it reduced the amount of parking required and reduced the impervious coverage proposed; as a result they reconfigured the driveway by extending it further back and providing for the parking at the rear of the dwelling instead of the parking currently at the front of the building. She described the parking spaces dimensions and the removal of sheds that were in the back to remove those non-conformities.

Chairman Widdis asked Mr. White if he had any questions. Mr. White stated he had a recommendation that they provide 4 parking spaces because there is no parking along Main Street and should there be a need they'd end up parking in the front yard again. Mr. Brodsky responded that they had no issue with doing that and that one of the neighbors even expressed a desire to see a better parking design. The Applicant is completely amenable to providing the additional space but it does exacerbate the impervious coverage so to the extent they'll need relief on that would need to be increased.

Chairman Widdis invited questions from the Board members.

Mr. Whitson asked about the Exhibit of other 2-family houses, and asked if the 3rd and 4th from below the pictures look the same and are they of different properties. Ms. Del Vecchio responded that they were different properties.

Mr. Kahle asked if this home was a single family home in the R-5 zone without the second unit would it meet the requirements of the zone and the Applicant is asking to create a 2-family house with two substantially undersized units. Mr. Brodsky responded that they are requesting to be able to use the structure as a 2-family and when the planning testimony is given later, they are proposing the same number of bedrooms as would exist in a single family home with 4 bedrooms. He continued that there compelling reasons to support granting that variance for a permitted use, improvements to the parking and the esthetic improvements. Additionally, the properties on either side are existing 2-family uses.

Mr. Davis asked about the parking – that if it were a single family home there wouldn't be a parking issue and you'd be able to remove the illegal driveway – what would be the square footage required for one-bedroom units. Mr. Brodsky responded that he didn't know if there was a different requirement, typically there is, but not in the R-5 zone.

Kevin Kennedy, Board Attorney, entered the meeting at 8:41 pm.

Mr. Davis continued with his questioning concerning the Applicant's position that the improvements were an upgrade to the site when its an illegal driveway and parking in front of the house which provides 2 parking spaces – how is it an upgrade. Mr. Brodsky asked for A-13 to be displayed and responded that they believe its an upgrade to the two rather than have one car parked in the front and two along the side that are in full view of the streetscape and so that's an aesthetic situation. Mr. Brodsky furthered that it was also from a safety and from a traffic perspective of having the 2 spaces not backing out onto Main Street as opposed to doing the maneuver on site and driving forward onto Main Street. Chairman Widdis joined the discussion with regards to how long the conditions were on the site, no one knows how long.

Mr. Davis asked additional questions related to the total habitable space, comparing the proposed versus 1-bedroom units to reduce the density. There was discussion on the question, the fact that there are existing 4 bedrooms and the marketability of the project.

Mr. Kleiberg commented that he didn't appreciate that exhibits weren't provided as the display was so small. Mr. Kleiberg questioned the statement that the lady next door has no problem with the driveway – they can have for nothing. Mr. Brodsky answered that the lady submitted a letter at the last hearing. No, there hadn't been a purchase for that. Mr. Kleiberg questioned what happens if she sells the property and the new owner has an issue with it. He also doesn't see the stop work order or the permits; this application should never have been approved without going to the Board. The driveway doesn't fit. Mr. Brodsky responded that the lady was willing to give an easement.

Ms. Del Vecchio interjected that the existing driveway was of legal width – a full 10' driveway. Mr. Kahle questioned it says 9'10" on the plan which Ms. Del Vecchio responded was to the property line, not the fence. Mr. Kahle asked what the 6 railroad ties were and was told it was a border.

Mr. Foster commented that the 2-family issue aside, he has concerns – the impervious coverage, agreeing with Mr. White the need for a 4th parking space, and asked if the gravel part of the driveway was included in the impervious coverage and was told yes. His point was that pervious pavers were used to replace the existing macadam could reduce the impervious coverage variance. Mr. White responded that the ordinance does not permit the use of another material to offset because it would need to be restricted and an enforcement issue in the future if it were replaced with an impervious material. Mr. Brodsky responded that the Applicant was agreeable to adding the 4th parking space and was willing to address the macadam as well as do a deed restriction.

Mr. Dailey pointed out that with 2-bedroom units, that's likely 4 cars and that 3 spaces wouldn't be sufficient and results in parking issues all over again. Mr. Brodsky responded that 3 was what was required but they were willing to add the 4th space which would also make the neighbor happy. Mr. Dailey expressed concern that the impervious coverage is increased and was a problem. Mr. Brodsky added that properties on either side also had 4 spaces in their backyards. Mr. Dailey asked if those were legal 2-family and was told yes, were actually CO'd with the lot to the east a bit smaller than the Applicant's.

Mr. Rue asked if this was the Applicant's first real estate development and was told yes, they have some experience with it. Mr. Rue continued then the argument is that the permits issued justified the conversion to the 2-family. Discussion ensued as to the assumptions made for the 2-family based on the permits issued. Mr. Rue expressed concern for the parking and the fact that the application does not meet the criteria for a 2-family.

Mr. Kahle commented that 7,000 s.f. is the correct size for a single-family home so the site meets the requirement for the zone if it were single-family. Mr. White add clarity that the requirement for a single-family is 10,000 s.f. which it does not comply with. The 7,000 is *per unit* for the 2-family criteria.

Mr. Davis asked to add to Mr. Rue's question the fact that there was a CO applied for and it had 1 CO for a single family house at the time of the acquisition.

Chairman Widdis asked if the house size on the lot on pg. 6 was correct as it didn't add up. Ms. Del Vecchio answered the footprint hasn't changed but the total areas changed because of the porch being returned to an open porch.

Mr. Kahle further commented that the railway tie reduces the driveway width to 9'4" and wouldn't they need a variance for the retainer. Mr. White clarified that they were seeking a variance for the driveway setback.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public on this witness only. Ms. Smith stated the contact information for the public to participate. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

Mr. Brodsky advised that after some technical issues they had posted on the screen the issued permit. Chairman Widdis responded they were not there to discuss the permits, understands what he's saying but the Board was there to discuss what was in front of them.

Christine Nazzaro Cofone, Professional Planner, was sworn in and having appeared before this Board on several previous occasions was accepted as an expert in the field of planning.

Ms. Cofone testified that she reviewed the application, document plans, exhibits, visited the subject property and reviewed the findings of the OPRA request for sites with COs, reviewed Mr. White's review letter and reviewed the Borough's Master Plan and Zoning Ordinance.

Ms. Cofone provided testimony for the d(5) variance for density, and unlike other type of variances that must show special reasons, the d(5) variance requires demonstration that the site can handle the excess density; relief being sought is for 12.3 where 6.3 is permitted; the lot is undersized regardless of single or two-family; the site currently supports 4 bedrooms today, a less-than desired parking area on the entire front yard and they are improving that as well as the amount of parking. It is her opinion that the site does support the proposed density from a planning point of view and that the Board can conclude that the site can handle the excess density. Ms. Cofone further testified that during her inspection she was surprised at how many other multi-family structures were in the area – research produced documentation that there were 11 other multi-family, six of which were issued certificates of occupancy and two of which are for the properties that flank the subject site. Ms. Cofone next provided testimony concerning the other variances for lot area and lot width which were existing conditions, impervious coverage variance and setback of the driveway. Ms. Cofone argued that when the lot width was only 47.78' it would be reasonable to expect that a side setback would be requested and that the Board can take into consideration for the C(1) and C(2) criteria the unique narrowness of the lot. Ms. Cofone further argued that the Ordinance requires 900 s.f. for minimum 1st floor habitable area and that the one unit provides for 1138 s.f. it's the other unit at 865 s.f. which if the porch was counted brings it to 956 s.f. She opined that in her work as an affordable housing special master, she looks at a lot of plans and a lot of housing and she believes that 956 was acceptable – the 865 plus exclusive access to the 91 s.f. porch – which in today's world everyone wants to use their outdoor living space. The before and after photos showed the porch enclosed before and it's her opinion that opening up that porch space in front of the property improves the visual aspect and the curb appeal. She unequivocally believes that the application meets the statutory proof for the d(5) density variance and does not see where the site cannot handle the excess density – and she does not see the increase in density from 4 bedrooms. As for the bulk variances she believes there are a number of positive criteria for purposes of the municipal land use law that the Board can rely on to grant those variances. Ms. Cofone also testified that while the site is not consistent with the size the zoning ordinance allows, when looking at the area and on either side of the subject property, both multi-family uses. She described several of the undersized lots in the surrounding area with the multi-family use and while she doesn't support "they have it so I should have it", she doesn't see a serious impact because what is proposed is consistent with what exists out there today and the application leaves the site better than it is today when balancing the positive and negative criteria.

Ms. Cofone further testified that they are meeting the requirements for parking by providing for 3 spaces and while she doesn't think a 4th spot will be needed, she can understand why the Board would want that. As far as better zoning, she would concur that the 4th spot was beneficial particularly. Further that the 30% impervious coverage was from gravel so why wouldn't you allow that to continue. And replacing the macadam that's in the front with gravel as well, which is certainly going to have a positive impact on the drainage.

Ms. Cofone also opined that she believes the application meetings the spirit and intent of the ordinance where regulating intensity of use is important to determine the area of open spaces surrounding the buildings and necessary to provide adequate light and privacy. In the 2006 Master plan, one of the goals talks about

ensuring a high quality of life for all residents and preserving and enhancing the community character and small town feel. She feels that improvements to the property and the improvements to the parking plan certainly outweigh any detriment to this area. She also believes that there are certainly some reasonable conditions that were discussed tonight that can be imposed on the applications. But as a planner, she can unequivocally say she believes the application meets the statutory burden of proof for the granting of these variances and believes the site can handle the density. She believes variance relief is satisfied under the C 1 C 2 criteria. That, the negative criteria is satisfied. There is no substantial detriment to the zone or, no substantial detriment to the public, good. No substantial detriment to the zone plan or the public good. I think when you look at that, when you talk about the public good. And when you look at the impact on the zone plan, they have some mitigating conditions here, that they're looking to limit that to what exists on the property today. There is no increase in the bedrooms or what exists on the property today. And you have a better arrangement and layout of parking and better-looking structure. It's her opinion that they do substantiate our burden of proof with respect to the negative criteria, were consistent with the master plan, which talks about ensuring a high quality of life and preserving and enhancing community character.

Chairman Widdis asked for questions from the Board.

Mr. Kleiberg stated he wasn't arguing about the width of the driveway but argued about the setback.

Mr. Foster referring to the exhibit with multi-family and COs, was interested at 70 Main Street which shows it as a flag shaped lot and asked if the Applicant had approached that property to purchase any additional property to help alleviate some of the variance and was told no – both lots on either side are undersized. Mr. Foster stated he felt it was necessary for the Applicant to do what they could to minimize the variances. Ms. Cofone responded that in order to do that it would exacerbate the non-conforming lots. She understands why it would seem that the additional area would reduce the impervious coverage and the density, what exactly would be done with that land and as far as impact she didn't see any benefit.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public on this witness only. Ms. Smith stated the contact information for the public to participate. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

Mr. Brodsky stated he had one additional witness – one of the principals, Mike Savarese Jr., who acknowledged having previously been sworn at the last hearing and recognized that he was still under oath.

Mr. Savarese, Jr. made an appeal to the Board, apologized for the error on both sides when reading the code both the developer and the zoning officer; it was always their intent to take a single family home and convert it to a legal 2-family lot; they have done their best to design the improvements to improve the parking at the request of a member of the public; they've revised the plans to reduce the number of bedrooms at the Board's concerns; no members of the public appeared in opposition; there's a need for multi-family rentals in town; he appreciates everyone's time and hopes the Board appreciates the time and effort by the Applicant to address the mistake and fix the issue.

Chairman Widdis invited questions from the Board.

Mr. Foster stated he, as the environmental liaison was very concerned about the impervious coverage and it was something that they do worry about and anything they could do including attempting to purchase additional land and anything they could do to recharge water on the property rather than runoff and asked if they were willing to attempt to get the land. Mr. Savarese, Jr. responded that he was willing to obtain a drainage study subject to approval to determine the best drainage plan. Further he and another party did meet with the neighbor at 70 Main and while they didn't offer to purchase, the neighbor had indicated he planned to do something with his property. Mr. Foster asked Mr. White if was agreeable to that. Mr. White answered that the site did not trigger stormwater review which was why he had not addressed it but he would like to see a grading plan that shows the property will drain to Main Street rather than to the rear. Mr. Foster commented that they didn't want to see it go to the street as it then ended up in the estuary.

Mr. Savarese, Jr. also offered to look at placing the best gravel for pervious that he would place at the back. He would also proceed with obtaining an easement from the neighbor if the Board desired.

Mr. Davis asked questions about the intent when they went into the town if they knew the lot was a single-family...Mr. Savarese, Jr. interjected that was incorrect – they went into the town with a plan to convert the single-family to a 2-family which was actually approved by the Zoning Officer and the zoning ordinance schedule and footnotes were confusing by everyone and at the end of the day they were before the Board to correct the error made by the zoning officer and themselves and by no means had no intent to “pull the wool” over someone’s eyes.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public on this witness only. Ms. Smith stated the contact information for the public to participate. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

Chairman Widdis asked Mr. Brodsky how he wanted to proceed. Mr. Brodsky asked for comments from the Board. Ms. Smith interjected that there did remain the public comment that came in by email. Mr. Brodsky conceded to have that read first.

Ms. Smith read an email in full, from Patrice George, Realtor and Oceanport resident.

Chair, members of the board, I hope you're all well and doing the best you can during these unusual and difficult times. My reason for writing is in regards to the proposed project at 64 Main Street. It is with great pride that I listed and sold this property to Mike ... as a fellow ocean port resident and Ocean port realtor at o'brian Realty. It is. All right. Have vested interest in making our town the very best it can be. While maintaining the incredible value in history that already exists. I have a nine year old daughter who attends Wolfville school and reminds me on a weekly basis that she never wants to move from town. My husband, Tommy George grew up here, attended Maple Play School and has very strong ties to the community. I take great pride in that and my job as a local Realtor. I think it's important for you to know that the proposed plan for 64 main is going to add so much value to that whole area of Main Street and our town as a whole. The sellers were excited and happy to know their home was going to now be renovated and used to its potential. It is also important for you to know that makes every purchase the property as a single family home. That was already set up as a two family, with the intention of creating a legal and compliant to family home in the permitted zone. When purchased, the front apartment was in need of renovations to bring it up to safety and fire standards and the front yard was used for parking. The proposed parking in the back is of great importance as the parking used to take up the entire front lawn. There was no other option, and now that front lawn will now be grassed, floured and safe, while the rear yard will still provide plenty of green space. I hope you'll consider approving this project based on the fact that the home was already set up as a two-family home in an approved RFIs zone. And now, with the proposed plan, will be legal compliant and utilized as it was zoned and intended. In addition to the structural improvements, our small town is in need of nice rentals, which is why the ... zone exists. The two units are going to be completely renovated and offer to beautiful rentals with parking in a nice yard area. Finally, I know Mike Severus, as I read it, as a resident of ocean port shares, the same sentiment as I do and preserving the value in history of Our Town, while making it the best security for the residents. Please feel free to reach out to me with any questions.

As there were no additional public comments, Chairman Widdis closed that portion of the meeting.

Before the Board comments were made, Mr. Kennedy asked Mr. Brodsky if he was concluding his case and resting. Mr. Brodsky responded that he was and briefly reiterated the extensive testimony both from the architect and planner, from aesthetically and from safety perspective; with regard to the extent to which the proposed 2-family, which is a permitted use in the zone, it fits very well in keeping with the existing zone and the existing neighborhood and in fact is sandwiched between two 2-family homes situated on undersized lots. This is not introducing a use to the zone that is not contemplated or does not exist or will be out of place. This was not a situation where anything improper was done, no bad motives, and if they had been denied back in November initially they would have known they couldn't do a 2-family unless they went to the Board for a variance. The applicant lost that opportunity and as a result ended up building pursuant to valid issued permits before ever finding out that a variance was necessary. The Planner provided testimony based on the zoning ordinance on the positive and negative criteria for the d(5) variance. This was not a situation the applicant wanted to be in and would have preferred to have known prior to doing the construction. The testimony remains and the Applicant believes strongly that the variances being sought are justified and supported by the municipal land use law.

Mr. Kennedy provided guidance to the Board stating that the board has no authority to assign guilt or liability or blame on how the hearing tonight came about. He respectfully submitted that its not our position to say that the applicant should done or could have done but were there tonight to debate the zoning merits of the application. Mr. Kennedy suggested that a vote be based upon the testimony and evidence presented and that a vote to approve be based on the opinion that the applicant satisfied all relevant legal standards to justify the C and D variance relief and a no vote be based on the decision that the applicant did *not* meet the relevant legal standards and placing reasons on the record for or against the application is appropriate and necessary. Mr. Kennedy continued with outlining the relief being sought and the impacts and the determination to be made and could it be made without causing substantial detriment to the public good, not necessarily no detriment but substantial detriment, is the site appropriate for the character of the neighborhood. Mr. Kennedy also advised that there was discussion about the neighboring encroachment and the Board could not give the right to this Applicant to build on someone else's property and we're not doing that here. Also, if Board members feel they need additional time to review, then the Board should vote to adjourn the application and come back.

Mr. Brodsky requested comments from the Board.

Mr. Whitson commented that his largest concern was for the family unit density issue – by code it was 6.3 and the plan proposed 12.3 and thought the reduction in bedrooms discussion would have alleviated some of that but that didn't go very far.

Mr. Foster commented that his count was there was 7 variances being sought. Mr. Foster recalled earlier days when Fort Monmouth was in its hey day and the plethora of multi-family housing, troops and a regular downtown so he understands why this study now as zoning has obviously changed over the years but it doesn't mean that houses were not used in a manner commensurate with what was being heard that night. There are issues he has with the application but does not believe they are insurmountable.

Mr. Kahle commented that if the denial had been done in November they would still be before us for the same things the only difference being they wouldn't have spent a lot of money before coming in front of us. There was a mistake but even if they hadn't made a mistake, we're still going to have the concerns about the lot size, the small units and the impervious coverage.

Mr. Kleiberg commented that the number one thing they came in for was to legitimize an illegal 2-family and he's not saying anybody is to blame, he understands a mistake was made but when mistakes were made the job stopped; and his second concern is the driveway which Mr. Kennedy also addressed as far as an easement or something like that and a piece of paper saying that 64 Main owns that little piece of property doesn't fly for him. He does not care about the other 2-family homes as it didn't do anything for this property which was originally a single-family home.

Mr. Davis commented that he had exhausted his comments but certainly wished that it was for 1 bedrooms and not 2 for the density – 10,000 s.f. is one family and this was trying to squeeze two 2-families on the lot and believes there should be some considerations and revisions made.

Mr. Dailey commented his biggest concern was the parking in the back with the amount of units and believes it will be an issue because there's no parking on Main Street.

Mr. Rue acknowledged that the improvements were nice but all of the issues about density, parking, all the things the Board has touched on – the detriments still outweigh the benefits from his point of view.

Chairman Widdis commented his concern was with the density – the intensity with the width being only 47 and they couldn't stop back then when there was little or no zoning. What was done in the past was in the past and feels too much is being jammed onto the property.

Mr. Savarese, Jr. stated he would be willing to reduce the front unit to 1 bedroom and the rear unit for a 2-bedroom to work with the Board. Either way he still needs a density variance but was willing to make the change for the Board.

Chairman Widdis advised that if he wants to approach that he would need to revise the plans and come back.

Mr. Whitson commented that it sounds like this was becoming a negotiation which was not the Board's role.

Chairman Widdis reiterated that the Applicant would have to make the decision to either go to a vote or request to come back.

Mr. Whitson further commented that the Board was in an awkward position as the Applicant was a member of the Board which had been very patient and this puts the Board in an awkward position.

Mr. Savarese responded that he has heard the Board and would request to carry the application and review the plan and options based on the Board's comments.

Mr. Kennedy stated that the application was going to be carried to the August 11, 2020 meeting with the provision of full-sized drawings with no additional notice required.

Motion to Carry Application to August 11, 2020 Meeting

RESULT:	ADOPTED [7 TO 0]
MOVER:	James Whitson, Vice Chairman
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Foster, Kahle, Kleiberg, Davis, Dailey
INELIGIBLE:	Rue
RECUSED:	Cooper, Tvrdik, Savarese

VII. Petitions from the Public: Chairman Widdis opened the meeting to Petitions from the Public. Ms. Smith restated the contact information for the public to participate. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

VIII. Adjournment: As there was no further business, the meeting was adjourned at 10:39 pm on a motion by Mr. Foster which was seconded by Mr. Rue and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary