



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • JUNE 22, 2021

Regular

REMOTE/VIRTUAL

7:00 PM

Clement V. Sommers Municipal Building, 910 Oceanport Way, Oceanport, NJ 07757

- I. **Call to Order:** Chairman Widdis called the meeting to order at 7:00 PM
- II. **Board Policy:** Chairman Widdis 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 January 22, 2021 of this virtual/remote meeting and its location, date and time to the Asbury Park Press, Star Ledger and Two River Times and by the posting of same on the municipal bulletin board and Borough's Web Site. Mr. 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.
- IV. **Flag Salute:** Chairman Widdis led attendees and members of the Board in the flag salute
- V. **Roll Call:**

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

- VI. **Board Business:**
1. Report of Pending Applications - Ms. Smith advised of upcoming applications for the July 13th meeting. She further advised that the Mandatory Conceptual Review for the warehouse parcel had been completed and review for completion was underway with hearing to be scheduled in near future. Ms. Smith also advised that there was high likelihood that the meeting room would be complete in time to return to in-person meetings for the July meeting pending some minor issues with technology and furniture.
- VII. **Approval of Minutes:**
1. Planning/Zoning Board - Special - Dec 16, 2020 7:30 PM

RESULT: ACCEPTED [6 TO 0]
MOVER: James Whitson, Vice Chairman
SECONDER: Joseph Foster, Environmental Committee Liaison
AYES: Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg
ABSTAIN: Davis
ABSENT: Cooper, Savarese, Dailey

2. Planning/Zoning Board - Regular - May 25, 2021 7:00 PM

RESULT: ACCEPTED [6 TO 0]
MOVER: James Whitson, Vice Chairman
SECONDER: Robert Kleiberg, Class IV
AYES: Widdis, Whitson, Foster, Kahle, Kleiberg, Davis
ABSTAIN: Tvrdik
ABSENT: Cooper, Savarese, Dailey

VIII. Old Business:

1. PR-21-17 Resolution of Approval - Fort Monmouth Business Center

As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions. Mr. Davis asked that the resolution condition specify the amount of concrete at back of warehouse should specify a minimum of 8' sufficient for a forklift. Mr. Davis made a motion to approve the Resolution with change, which was seconded by Mr. Foster and received the below roll call:

RESULT:	ADOPTED [5 TO 0]
MOVER:	Darren Davis, Class IV
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Tvrdek, Foster, Davis
ABSENT:	Cooper, Savarese, Dailey
INELIGIBLE:	Kahle, Kleiberg

2. PR-21-18 Resolution of Approval - Sommers, Dawn

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

RESULT:	ADOPTED [6 TO 0]
MOVER:	Robert Kleiberg, Class IV
SECONDER:	James Whitson, Vice Chairman
AYES:	Widdis, Whitson, Foster, Kahle, Kleiberg, Davis
ABSENT:	Cooper, Savarese, Dailey
INELIGIBLE:	Tvrdek

3. PR-21-19 Resolution of Approval - Rovinsky, Todd

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

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Tvrdek, Foster, Kahle, Kleiberg, Davis
ABSENT:	Cooper, Savarese, Dailey

4. PR-21-19 Resolution of Approval - Motzenbecker, Eric

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

RESULT:	ADOPTED [5 TO 0]
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Foster, Kahle, Kleiberg, Davis
ABSENT:	Cooper, Savarese, Dailey
INELIGIBLE:	Whitson, Tvrdek

IX. New Business:

1. PB2021-08 (Zanghi)

14 Balmer Court

Block 65.01, Lot 1.04

Bulk variances for fence and shed:

-Accessory Structure location: Ordinance 390:19C does not permit accessory structures to be in a front yard. The proposed 12' x 20'

pool shed is ten (10) feet from the Right of Way whereas the front yard would require a setback of 34.16'.

-Maximum height of fence - a maximum fence height in the front yard is 4 foot high and 50% open. The Applicant proposes a 6' high solid PVC fence.

Exhibits

A-1 Land Development Application

A-2 Plot Plan, 1 Sheet, prepared by Insite Engineering, LLC, last revised May 14, 2021

A-3 Colliers Engineering Review Letter, May 25, 2021

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 call in, 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.

Joseph Zanghi, Owner/Applicant and Maeve Desmond, Applicant's Professional Planner, were sworn in. Ms. Desmond presented her qualifications and was accepted as an expert in planning.

Ms. Desmond, referring to Exhibit A-2, described the application for a 12'x20' shed to store lawn furniture, tools and similar items and a 6' solid fence parallel to the Myrtle Avenue frontage, property location, lot characteristics, history of the lot's creation, the uniqueness of the lot having two frontages and the challenges with setbacks for improvements; described the variance relief for front yard setback of 10' where 30' required and for the fence which permits 4' high and 50% open where 6' high and solid are proposed; if the yard to the back of the home was considered a rear yard the proposed improvements would be compliant with the ordinance. Ms. Desmond testified to the (c)2 variance relief proofs including the unique geometry of the lot that limits the extent of the property's use if the strict interpretation of the zoning were applied. Case law has dictated that inability to use is not the only reason for a hardship. She opined that the two variances meet the burden of proof and that the deviation from the zoning ordinance would provide benefits that outweigh any detriments. It meets the positive criteria being permitted uses, maintaining adequate light, air and open space. The existing vegetation provides buffer that promotes a desirable visual environment and the fence was not obtrusive and in character with the type of fencing used in the surrounding neighborhoods. The required vegetative buffer per the subdivision eliminates any detrimental visual impacts from the proposed structures.

Chairman Widdis asked questions about the fence locations and if there was a need for variances for the fence height on the north and south sides of the property. Mr. White clarified the fence portions from the rear of the house to the straight are considered the front yard and are covered by the variances requested. Additional questions included setback to property line for fence and buffer area.

Board member questions included if there was a rear yard setback, the patio coverage, the location of the fence on the Balmer Ave side of the property, whether there were plans for a pool which there would be none, plans for electric only in the shed and no outside lighting on the shed, request that outside lighting, if any, be directed downward away from neighbors.

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

PUBLIC: Chairman Widdis opened the hearing to comments from the public on the application. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Mr. Davis asked what was the width of the walkway to the shed. Ms. Desmond scaled it and advised it appeared to be 8'. Mr. Davis asked if the Applicant would agree to reduce the walkway to 4'. Mr. Zanghi answered yes. Mr. Davis asked if they would provide a tree buffer along the fence, 5' green giants to buffer the fence to which the Applicant agreed. Mr. Davis asked if the sidewalk could be sidestepped so that the neighbors don't look at a garage when gate is opened. Mr. Zanghi responded they hadn't designed that part of it but would take it into consideration.

Motion to Approve the Application with Conditions

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Darren Davis, Class IV
SECONDER:	James Whitson, Vice Chairman
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSENT:	Cooper, Savarese, Dailey

2. PB2021-02 Marttine, James

4 Blue Point Cove

Block 72, Lot 4.02

Bulk variances for pool installation: Maximum Impervious Coverage: 25% permitted, 21.68% existing and 30.84% proposed

Exhibits:

A-1 Land Development Application

A-2 Topographic Survey of Property, 1 Sheet, prepared by Lakeland Surveying, last revised 10/09/2019

A-3 Plot Plan, 1 Sheet, prepared by KBA Engineering Services, LLC, dated 01/21/2021

A-4 Colliers Engineering Review Letter, May 12, 2021

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice and provided the public with options to participate. While waiting for the public to call in, 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.

The following persons were sworn in: James Martine, Owner/Applicant; Joseph Bruno, Applicant's Architect and Joseph Kociuba, Applicant's Professional Engineer & Planner, were sworn in.

Frank Rivellini, Attorney for the Applicant, gave opening remarks describing the application for a pool, patio and deck area needing variance relief for impervious coverage of 30.84% proposed where 25% permitted.

Joseph Kociuba provided his credentials and qualifications and was accepted as an expert in engineering and planning. Mr. Kociuba provided testimony including description of the site characteristics, lot dimensions, existing residential use, the limited rear yard area due to the lot shape and location of dwelling, described the proposed improvements for a pool and associated improvements, successful approval of an NJDEP CAFRA permit for the project; what was included in the impervious coverage calculations, the grading will be compliant, with adjustment of the grade to avoid need for barrier at corner of the deck. He also provided testimony concerning design to minimize stormwater runoff impacts, runoff directed to bulkhead and creek and away from adjacent properties.

Mr. Kahle asked the 3' side of the pool was there a railing from grade to top of pool and was told it would be a finished edge.

Mr. Davis asked if the Applicant was willing to make the back patio at the rear of the house match with the lower deck to limit coverage.

Mr. Kociuba responded that the Applicant wished to keep that as patio and would provide that in his planning testimony. Mr. Davis asked if the pool was an infinite pool and was told no, it would have no outer trough.

Mr. Foster asked if there would be lighting installed around the pool. Mr. Kociuba deferred to the Applicant but believed there would be landscape lighting that would be downcast.

PUBLIC: Chairman Widdis opened the hearing to questions from the public of this witness.

Mr. White asked where the pool equipment would be located. Mr. Kociuba responded it would likely be placed next to the addition in a compliant location and would be placed on a raised platform to meet the elevation requirements.

Chairman Widdis asked doesn't the 3' section of the pool require a fence and was told the height was just below 30" – the maximum allowed without the need for a fence/guard. The grade at the pool/deck at the northwest corner would be graded for 30" or less. The pool will have compliant fencing as well.

Mr. Davis asked what the plan to remove the water from the courtyard area with the stepping stones etc. in the path. Mr. Kociuba answered that the deck was above grade at that point, and intent to slopes downward around the pool and would probably install some kind of French drain to address that and would daylight not empty to the river.

Matthew Goldfine, 5 Blue Point Cove, was sworn in, thanked the Board for their questions on the grades and railings, and asked if any railing or guard would not block visibility which was a point of his own approval previously from the Board. He asked questions about the grading, testimony assuring that grading would be brought to make slope less than 30". Mr. Goldfine asked that the Board make any approval condition upon no railings and the grade be done properly. Mr. Goldfine asked questions about materials to be used for landscaping. Mr. Kociuba responded that the Applicant would agree to place low-lying landscaping where the pool is exposed under the deck. Mr. Goldfine asked if pool equipment could be moved away from his property. Chairman Widdis answered no variance was requested for that. Mr. Kociuba responded that they would put landscape screening around the pool equipment.

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

Mr. Rivellini stated he had no other witnesses but the planning testimony by Mr. Kociuba.

Mr. Kociuba provided planning testimony concerning the variance being sought for impervious coverage and outlined the lots characteristics, the existing coverage and rear yard make improvement difficult and that due to same a c(1) variance was appropriate; reviewed the positive and negative criteria, impervious coverage limitations were typically enforceable light intensity in this case; the gravel driveway provides calm water benefit, the whole rear yard drains directly to creek lessening impacts and the pool itself does

capture runoff and the pool surround would be pervious and it was his opinion that there would be no detriment to the zoning plan as the site was otherwise compliant.

PUBLIC: Chairman Widdis opened the hearing to comments from the public on the application. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Mr. Davis made a motion to approve the application as amended to veneer the patio and the new extensions on the house with a cultured stone, west side of pool will have a buffer for the exposed portion under deck, buffer and sound screen pool equipment, adjust grades for the pool and patio to not be elevated more than 30" to eliminate the need for railings and that all lighting would be directed downward away from the neighbors and complaint fencing for pool code with an impervious coverage variance for 28.8 and the pool will not be an infinite pool

Motion to Approve Application with Amendments and Conditions

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darren Davis, Class IV
SECONDER:	Thomas Tvrdik, Class III
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSENT:	Cooper, Savarese, Dailey

3. PB2021-10 Terry, Gregory & Debra

80 Gooseneck Point Road

Block 74, Lot 11

Variance Relief from Flood Prevention Ordinance Section 229-17A(1) which requires two additional feet above base flood elevation

EXHIBITS:

A-1 Land Development Application

A-2 Proposed Raised Foundation Plan, 1 Sheet, prepared by Paul A. Damiano Architects, LLC, dated 01/31/2013

A-3 Elevation Certificate prepared by Thomas P. Santry, Jr., dated 10/03/2016

A-4 Colliers Engineering Review Letter, June 9, 2021

Councilman Tvrdik stated for the record that prior to the renovations he did the hardwood floors, he is not working for them now and does not feel there's any conflict to hear the application.

Mr. Davis stated for the record that his company installed the driveway for the property about 8 years ago but did not feel there was any conflict.

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice provided the public with options to participate. While waiting for the public to call in, Mr. White was sworn in as the Board Engineer/Planner and the Borough's Flood Plain Administrator. 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 acceptable for the Board to accept jurisdiction.

Gregg Terry, Owner/Applicant, was sworn in and testified that he was seeking relief from the Borough's flood prevention ordinance as the finished floor had been constructed at 11.4' instead of the required 12.4' and the air conditioner at 10.7'. Mr. Terry provided history of the site, elevation of the dwelling after the impacts of Sandy; plans were prepared and designed for 12.4' by professionals but it was brought to their attention at close out of the permits in order to sell the property that the elevation certificate indicated the structure built lower than the plans indicated.

Mr. White asked Mr. Terry concerning an inquiry by the buyer's attorney that the structure had sunken room – step down and whether that was reflected on the elevation certificate. Mr. Terry responded that to his knowledge there was a room slightly lower was at the 11.4. Mr. White expressed concern that it be verified in order for the correct variance to be given and the owner not have to return.

Board members commented that the applicant should verify the accuracy of the certificate and that the 11.4 reflects the lowest floor, the attorney to check if the actual number was lower did it affect the notice, and Board members expressed the desire to see the utility raised to comply and eliminate the need for that variance. There was discussion about the question on the next highest floor and what it meant for the Applicant, possible risks if the Applicant proceeds without the verification and next steps including considering having the engineer attend next meeting to testify. The Applicant requested that the Board carry the application to July 13, 2021 meeting with no new notice required unless circumstances change depending on the nature of relief. The public was advised that they would be able to view the meeting online but to check the Borough website as meetings would likely be returning to in-person and attendance required to participate.

Motion to Carry Application to July 13, 2021

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joseph Foster, Environmental Committee Liaison
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSENT:	Cooper, Savarese, Dailey

- X. **Petitions from the Public:** Chairman Widdis opened the meeting to Petitions from the Public. As no one from the public presented, Chairman Widdis closed that portion of the meeting.
- XI. **Adjournment:** As there was no further business, the meeting was adjourned at 9:01 pm on a motion by Mr. Whitson which was seconded by Mr. Foster and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary