



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • JUNE 13, 2023

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 7:01 PM
- II. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by adequate and electronic notification on Feb. 10, 2023 of this 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.
- 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 9:30 P.M.; no new testimony will be taken after 10:00 P.M., except at the discretion of the Board.
- V. **Roll Call:**

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

- VI. **Board Business:**
- Report of Pending Applications: Ms. Smith advised the next meeting was scheduled for June 27, 2023 and described applications for 111 Sagamore Ave and the Nurse's Quarters. For the July 11th meeting it is anticipated that the Marina at Oceanport application will be scheduled.
- VII. **Approval of Minutes:**
- Planning/Zoning Board - Regular - Apr 11, 2023 7:00 PM

RESULT:	ACCEPTED [4 TO 0]
MOVER:	John (Jack) Kahle, Vice Chairman
SECONDER:	Joseph Foster, Environmental Commission Liaison
AYES:	Whitson, Kahle, Foster, Dailey
ABSENT:	Tvrdik, Widdis C, Davis, Calver, Kleiberg
INELIGIBLE:	Cooper, Widdis L

- VIII. **Old Business:** None

IX. **New Business:**

- PB2023-07 GILL, BRIAN
Block 109, Lot 10
85 Horseneck Point Road
Applicant seeks variance from flood damage prevention ordinance for lowest floor grade of 5.61' where 8.87' was permitted.

EXHIBITS:

A-1 Land Development Application

A-2 "Plot Plan" prepared by InSite Engineering, LLC, dated February 24, 2023

A-3 "Final As-built Survey" prepared by InSite Engineering, LLC, last revised October 22, 2022

A-4 "Foundation Plan Notes" prepared by Michael Savarese Associates, last revised March 15, 2023

A-5 Colliers Engineering Review letter dated

A-6 Photographs, 12 Sheets, taken by Applicant, undated

A-7 Elevation Certificate prepared by InSite Surveying Inc., dated August 8, 2022

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, 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. A-5.

The following person(s) were sworn in: William White, Board Engineer/Planner, Brian Gill Applicant/Owner and Michael Savarese, Applicant Architect.

At 7:09 PM, the meeting took a 5-minute recess to address a technical issue with the sound system.

At 7:15 PM, the meeting resumed with all previous members still present.

Mr. Gill described his application for variance relief from the Flood Damage Prevention ordinance due to construction project with an as-built of a below-grade crawl space. He testified that he was the property owner with an existing single-family home that was recently constructed with Mr. Gill as the general contractor and that all necessary permits were obtained. While finalizing inspections to obtain a certificate of occupancy, it was found that the crawl space had been built lower than the permitted elevation. By ordinance the Applicant would be required to fill in the crawl space or obtain variance relief. The Applicant chose to pursue variance relief to legalize the existing below-grade crawl space.

Mr. Savarese, having appeared before the Board on previous occasions, was accepted by the Board as an expert in Architecture. Mr. Savarese submitted photographs of the site for the Board's consideration which was marked **Exhibit A-6**. Mr. Savarese provided testimony concerning the foundation plan and his belief that the crawl space as approved on plans and permit wasn't built correctly but not caught until everything was finalized. No equipment or anything else is stored in the crawl space. He further testified to the varying elevations, existing/planned, reviewed and addressed each comment from the Board Engineer's review letter including no adverse impacts by approving the variance relief, no presence of water pooling in crawl space, presence of sump pumps with a proposed generator at the site to ensure sump pumps are fully operational even during power outages, the crawl space would not be used for storage or living space or the housing of any mechanical systems, the Applicant has asserted that it is a new house and would be a hardship both physically and financially to comply with the ordinance. Mr. Savarese added that the Gill's do have flood insurance. Mr. Gill added that it is only for the garage which is the only portion in a flood zone. Mr. Savarese further appealed to the Board that the Applicant not be required to fill in the crawl space citing no access from the exterior and would require the existing slab be broken up and removed, new materials brought in and a new slab be poured.

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

Mr. White asked questions about hydrostatic pressure and any adverse impacts which Mr. Savarese testified would not have any impacts upon the structure due to the presence of the flood vents, without the vents it would be problematic.

Ms. Cooper asked questions about the timing of inspections and when the issue was found. Mr. Gill testified that they had all the permits and they had a checklist of 10 items to complete for the CO of which they had 9 completed and prior to the last item being completed is when the issue was discovered. She asked questions about the flood insurance and the coverage. She asked why the plans do not include reference to a proposed generator. Mr. Savarese pointed it out on the Foundation Plan. Ms. Cooper asked why the generator was tied into the variance per the testimony. It was clarified that there was no variance needed for the generator.

Mr. Foster asked questions about the flood zone designation, expressed concerns about impacts to the community's rating. Mr. White commented that the variance would not impact the Borough's rating, would only impact the owner with a higher premium. The finished floor is above the base flood elevation of 10.4. Mr. Savarese read and submitted a Flood Elevation Certificate indicating compliance with the base flood elevation which was marked as **Exhibit A-7**.

Mr. Kahle asked questions about the foundation and why it wasn't realized at the time of construction. Mr. Savarese responded that he didn't know as he wasn't there but it was during COVID and it wasn't brought to their attention until closure. Mr. Kahle asked questions about the drainage and where it was directed. Mr. Gill testified that to the leader locations and that they drain to the water.

Mr. Dailey asked Mr. White if he was ok with the runoff and recharge system and was told yes.

Ms. Barham-Widdis asked the purpose of the crawl space if not for storage which Mr. Savarese testified was to access plumbing, electrical, the kitchen systems.

PUBLIC:

Chairman Whitson opened the meeting to the public for questions and then comments. As there was no one, Chairman Whitson closed that portion of the meeting.

Chairman Whitson expressed concern that the Borough not have any liability. There was discussion on including a condition that the resolution be required to be recorded so that all future owners know of the requirement and the hold harmless to the Borough. Mr. Kennedy asked Mr. Gill if he had counselled with his professionals for legal, title and other impacts and would agree to the hold harmless to which Mr. Gill agreed.

Mr. Foster asked what was the financial impact of filling the crawl space which Mr. Savarese estimated at \$60-80,000. Mr. Gill added that the project was started during the pandemic when 2x4 were \$2 and during construction went up to \$10 – way over budget.

Mr. Kahle asked that the Applicant be required to provide a survey to the Borough after the generator installed.

Motion to Approve Application with Conditions

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Leslie B Widdis L, Class IV
SECONDER:	John (Jack) Kahle, Vice Chairman
AYES:	Whitson, Kahle, Cooper, Foster, Widdis L, Dailey
ABSENT:	Tvrdik, Widdis C, Davis, Calver, 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.
- XI. Adjournment:** As there was no further business, the meeting was adjourned at 7:49 pm on a motion by Mr. Kahle which was seconded by Chairman Whitson and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary