BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● MAY 12, 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 April 1, 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 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 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	Absent	
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	
Kevin Kennedy	Board Attorney	Remote	
William White	Board Engineer/Planner	Remote	

V. Board Business:

1. Planning/Zoning Board - Regular - Mar 10, 2020 7:30 PM

RESULT:	**ACCEPTED [7 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Commision Liaison
AYES:	Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Savarese
INELIGIBLE:	Widdis, Tvrdik, Rue

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

RESULT:	**ACCEPTED [9 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Savarese
INELIGIBLE:	Rue

3. Referral from Governing Body, Ordinance #1024 Adopting Redevelopment Plan

   A-3 Redevelopment Plan for Squier Hall – Amendment 13, dated May 14, 2019

   William White, Board Engineer/Planner, was sworn. Mr. Kennedy entered **Exhibit A-3** into the record.

   Kevin McManimon, Borough Redevelopment attorney appeared and provided an overview of the Board's review of the redevelopment plan for the Squier Hall area, the Board's responsibility to review and make a recommendation to the Governing Body as to the whether the ordinance had any inconsistencies with the Master Plan. He explained that the redevelopment plan is a result of implementing by ordinance the recommendations from the Area in Need investigation and that the Board had found the redevelopment plan to be consistent with the Master Plan.

   Elizabeth Leheney, Professional Planner, was sworn. She described the three designated areas in need of redevelopment, that the redevelopment plan is consistent with the Borough's Master Plan and previous approvals allowing Squier Hall for reuse as a college campus, demolition of other building, addition of surface parking, nature preserves, hiking and multi-use trails, and prohibition of residential/dormitories.

4. Recommendation to Governing Body, Ordinance #1024

   Chairman Widdis asked if the Board members had any questions. Mr. Davis asked questions about the process of the FMERA amendment, the town's role, the Board's previous approval of the NJCU application and how everything interplayed. Mr. Foster asked if the McAfee Center was included in the redevelopment plan as presented. Ms. Leheney advised that the McAfee Center was not included in the redevelopment plan and would have to come before the Governing Body separately. Ms. Smith provided additional clarification as to the ordinance purpose which enables the Governing Body to negotiate financial terms with the individual developer and that should another developer desire to do same with the other 2 parcels included in the area in need designation they would have to approach the Governing Body on that development itself.

5. Motion to Approve Resolution PR-20-20 - Recommending the Adoption of a Redevelopment Plan for the "Squier Hall" Parcel Located within the Former Fort Monmouth

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Savarese

Councilman Tvrdik read a statement into the record regarding the relationship between Oceanport, Ft. Monmouth and FMERA. He outlined some of the problems with redevelopment, including buildings in disrepair, mold, peeling paint and unsightly property conditions. He expressed his support for the NJ Housing and Redevelopment Law. He discussed the factors to be considered in determining areas in need of repair. The former Fort property and majority of the buildings on the property meet those requirements. Councilman Tvrdik addressed concerns about requests from developers for Payments in Lieu of Taxes (PILOT) and explained that PILOTS for these commercial projects would benefit the Borough. The decision to approve a PILOT is solely in the hands of the Governing Body and explained the requirement for public comment on the proposal. Ms. Cooper and Mr. Kleiberg echoed Councilman Tvrdik's support of having the Borough in control of the former Fort property.

VI. Resolutions:

1. Resolution of Approval - 262 Arnold Ave, Hager, Gary

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

Motion to Approve PR-20-19

RESULT:	**ADOPTED [7 TO 0]**
MOVER:	Joseph Foster, Environmental Commission Liaison
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Whitson, Cooper, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Savarese
INELIGIBLE:	Widdis, Tvrdik, Rue

2. Resolution of Approval - 8 Fairfield Ave, Grimley, Christine
   As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, which Ms. Cooper made a motion to approve the Resolution, which was seconded by Mr. Kleiberg and received the below roll call:

Motion to Approve PR-20-17

RESULT:	**ADOPTED [9 TO 0]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Savarese
INELIGIBLE:	Rue

3. Resolution of Approval - 66 Algonquin Ave, Rapuano, Jennifer
   As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, which Mr. Tvrdik made a motion to approve the Resolution, which was seconded by Mr. Davis and received the below roll call:

Motion to Approve PR-20-18

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

VII. Old Business:

1. PB2020-08 MSA at 64 Main Street LLC
   64 Main Street
   Block 116, Lot 25

EXHIBITS:
A-1 Planning Board Application Package
A-2 Zoning Officer denial letter dated February 5, 2020
A-3 Maser Consulting review memorandum, dated April 9, 2020
A-4 Plans prepared by Michael Savarese Associates, last revised April 8, 2020 (6 sheets)
A-5 Survey prepared by Thomas Santry, dated October 22, 2019 (1 sheet)

Ms. Cooper and Councilman Tvrdik recused themselves from the hearing on this application.

Mr. Kennedy advised that the Applicant was a member of the Planning Board. He explained that he researched the land use law regarding an application by a sitting Board member, and stated that property owners do not forfeit their rights even though they are a Board member. So, there is no conflict of interest. Chairman Widdis polled the Board members to assert their ability to be impartial on reviewing the application, to which there were none.

William White, Board Engineer/Planner, was sworn. Mr. Kennedy introduced **Exhibits A-1, A-2, A-3, A-4 and A-5**. Rick Brodsky, Esq. appeared for the Applicant. He identified the principals of MSA Associates, LLC, who are Michael Savarese, Sr. and Michael Savarese, Jr. Mr. Brodsky summarized the application, which is to legalize an existing two family residence and parking improvements. There will be no increase to the footprint. He provided a brief overview of the history of the application, and advised the Applicant and Zoning Officer had overlooked minimum lot size, and a mistake on the survey. Mr. Brodsky explained the variances the Applicant was requesting.

David Grimm, Applicant's Architect, was sworn, provided his education, qualifications and background for the record. Mr. Grimm described **A-4**, site conditions, zoning information, existing and proposed plans. He stated the property is in the R-5 zone, which permits single and two family homes. He discussed variances required for lot width, front, rear yard and side yard setbacks, maximum total lot coverage, and increase in maximum impervious coverage. Mr. Grimm described changes to the parking, removal of walkways and 2 non-conforming sheds. Mr. Grimm provided details on existing minimum habitable floor area and the proposed habitable space. He provided details on the existing interior and exterior layout and the proposed for both units, including entrances, porch, and baths. He noted that there are existing two-family residences nearby, and this proposal would fit the neighborhood.

Mr. White asked questions regarding the variances being sought, whether they were C1 or C2 for the five bulk variances. Mr. Brodsky advised the Applicant would be seeking both C1 and C2. Mr. White requested clarification. Mr. Brodsky stated that based on Mr. Grimm's testimony, by granting the variances, the benefits would substantially outweigh any detriment. There was discussion regarding ingress/egress, floor area ratio, updates to comply with construction and zoning codes. Mr. White asked if the neighboring properties were legal two family residences. Mr. Brodsky wasn't sure. Mr. Kahle asked for confirmation regarding how the existing structure was taxed, was it illegal, were new CO's received after tenants changed, etc. Mr. Brodsky advised when the property was purchased, it was assumed it was a legal two family, and no issues were raised when construction permits were issued. There was discussion regarding whether the property was single or two-family. Mr. White added that the Borough only issued a CO for a single family home. There was additional discussion regarding the status of a single family or two family.

Mr. Brodsky asked that Michael Savarese, II. testify as to his knowledge of the transaction. Mr. Savarese, II was sworn. He stated that at the time of purchase, it was marketed as a home with an existing owner in the rear, and a lease in the front. A condition of his purchase was the vacation of the property owner and tenant, with a CO from the Borough. Mr. Brodsky described the issuance of the CO, the Borough's designation of a single family, but the actual use of a two-family.

Chairman Widdis asked Mr. Kennedy if the issues should be bifurcated to deal with the illegal two family, and then go through the rest. Mr. Kennedy stated that a two family use is permitted in the zone. He asked Mr. Brodsky to provide more information about his knowledge of the Borough's records. Mr. Brodsky stated the Applicant has never taken the position that the property is a legal two family. The Applicant is trying to legitimize the use, despite the fact that the property was identified as single family. Mr. Grimm provided additional information regarding neighboring properties. Mr. Brodsky advised he would obtain information regarding the neighboring properties and whether they were legal or illegal two family residences.

Chairman Widdis asked for comments from each Board member. Mr. Whitson expressed strong concerns about the application, that simply because the parking has been improved, that the five variances and density should be ignored. He feels there is no justification for this property to become a legal two family. Mr. Foster expressed similar concerns about density, but appreciates the proposed improvements. Mr. Kleiberg echoed Mr. Whitson's comments, but noted that all new utilities would be required. He stated just because it was being used as a two-family, it hasn't been approved as such. Mr. Kahle agreed with other Board members and thought it needs to be revisited. Mr. Davis stated there were a number of non-conformities and expressed concern about future applicants requesting two or three family residences. Mr. Dailey agreed and stated that it was not a legal two family. Chairman Widdis stated that while it is a two-family area, as a practical matter, he wondered how the Applicant would get it done. He was interested in the use of the neighboring properties. Mr. Grimm reminded the Board that while they were before the Board for variances, permits were issued, construction has begun and money has been spent. Mr. Whitson asked if it was noted as a two-family on the permit application. Mr. Grimm advised that the application did. Mr. Grimm advised the Applicant will provide copies of permits for adjacent properties. Mr. Davis asked Mr. Kennedy if the construction permits had any impact on the application. Mr. Kennedy will investigate.

Chairman Widdis stated the matter would need to be carried. Ms. Smith advised that the next available meeting would be May 26, 2020. Mr. Brodsky consented to an extension on the time for the Board to act. Mr. Kennedy advised there will be no additional notice required.

VII. New Business: NONE

IX. Petitions from the Public: Chairman Widdis opened the meeting to Petitions from the Public. Ms. Smith advised the Chair that there were presently no members of the public in attendance or having submitted a question or comment.

There was some discussion regarding a previous public comment, and Mr. Grimm advised the Applicant had addressed his concerns regarding parking.

John Johnson, Construction/Zoning Official, was sworn. He testified that he will investigate the permits and provide information to the Board for the next meeting. Mr. Davis asked about the process for permitting. Mr. Johnson testified that he did receive construction permits, however, when it was discovered that there problems with the conformity and lot size, he advised the Applicant and that if construction continued, it would be at his own risk. Mr. Whitson asked Mr. Johnson if the permit application states whether the property is a one or two family, is that taken on its face. Mr. Johnson replied that he would have to review the application. Chairman Widdis indicated that additional testimony from Mr. Johnson will be required.

As no one else from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

X. Adjournment: As there was no further business, the meeting was adjourned at 8:25 pm on a motion by Mr. Foster which was seconded Mr. Rue, seconded by Mr. Dailey and approved by Board members.

Respectfully submitted,

Jeanne Smith
Board Secretary