

**OCEANPORT PLANNING BOARD
MINUTES
May 12, 2010**

Chairman Widdis called the meeting to order at 7:30 p.m. and announced that the meeting had been advertised in accordance with the Open Public Meetings Act.

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mr. McCarthy, Mr. Savarese, Mr. Kleiberg, Mr. Gervolino, Ms. Flor, Mr. Fichter, Mr. Whitson, Mr. Widdis

MEMBERS ABSENT: Mr. Ibex, Mr. Bertekap, Mr. Sullivan

OFFICIALS PRESENT: Jeanne Smith, Board Secretary, Rick DeNoia, Board Attorney and William White, Board Engineer/Planner

BOARD BUSINESS:

1. Minutes of the meeting of April 28, 2010 were approved as presented on a motion from Mr. Whitson and a second from Mr. Kleiberg and approved by the eligible Board members present.

OLD BUSINESS: None

NEW BUSINESS:

2. PB File: 2010-02
Anthony Burdi
50 Wolf Hill Avenue
Block 139, Lot 49
Request for use and bulk variances – carport, front and rear yard setbacks, lot area and lot width

Mr. DeNoia stated that the application present before them was a new application that had been re-noticed and that he had reviewed the notice and found it to be proper and that there was no continuation of the last matter as the past application was withdrawn without prejudice.

Mr. DeNoia also explained to the applicant as well as for the record how a unified board handles applications and that because this application was requesting a use variance in addition to bulk variances that the law requires the Board to act as a Board of Adjustment and that was why only 7 members would be acting on the application.

**A-1 Survey of 50 Wolf Hill Ave prepared by Azimuth Land Surveying Co., Inc.
dated 2-5-2010**

**A-2 Plot Plan of Tax Lot 49, Block 139 prepared by Geller Sive & Company
dated February 22, 2010, last revised March 25, 2010**

**A-3 Architectural Plans, Sheets 1-7, prepared by Rick Thompson, AIA,
dated February 18, 2010**

Anthony Burdi, Applicant and Michael Geller, Professional Engineer for the Applicant, were sworn in. Mr. Geller presented his qualifications and was accepted by the Board as an expert.

Mr. DeNoia then swore in the Board's professional, William White, Professional Engineer & Professional Planner.

Anthony Burdi read a statement giving a description of the application, including a new dwelling with garage and carport, a background on the historic use of carports for craftsman designed homes, why he thought the intent of the zoning ordinance prohibiting carports was for the shanty type structure and not the form being proposed which was incorporated within the principal structure.

Mr. Geller presented a Survey of 50 Wolf Hill Ave prepared by Azimuth Land Surveying Co., Inc. dated 2-5-2010 which was marked as **Exhibit A-1**, a Plot Plan of Tax Lot 49, Block 139 prepared by Geller Sive & Company, dated February 22, 2010, last revised March 25, 2010 which was marked as **Exhibit A-2**, and Architectural Plans, Sheets 1-7, prepared by Rick Thompson, AIA, dated February 18, 2010 which was marked as **Exhibit A-3**.

Mr. Geller provided testimony concerning the variances being requested - a use variance for a carport and bulk variances for front and rear yard setbacks, lot area and lot width as well as describing the site and the surrounding lots and that the property was in an area where it was abutted to adjacent to all undersized lots and that there was no available area from any lot that would render the applicant's lot to conform to width, depth or area proving that aspect of the application. Mr. Geller also testified that the proposed house fronted to Wolf Hill Avenue with a proposed 30' front setback to the covered porch and that the Code also allowed for open porches to project 6' into the required setback and that the Applicant is choosing to set it at the required 30' to be in line with the other dwellings in the block but by doing so the side setback on Branch Avenue treated also as a front setback was where they are asking for the variance relief for 27' proposed where 30' was required and that the variances were diminimis in nature and that the side yard to Lot 1 which was proposed at 13.46' where 10' was required in order to provide additional space between the dwellings which was a desirable feature for light, air and open space which warranted the setback relief to Branch Avenue in his opinion. Mr. Geller also pointed out that both corners of the proposed house met the setback on Branch due to shape of the lot and that the unique shape of the lot as undersized and trapezoidal in area poses a C1 hardship type of condition that due to the exceptional shape and narrowness of the property and the fact that it was a corner lot with two fronts. Mr. Geller further discussed the rear yard setback which posed a difficulty in that having to meet 2 front yards they were posed with meeting a rear yard that was more like a side yard. Mr. Geller explained that the dwellings design was done in such a form to meet the constraints of the lot and despite the setback variances the building coverage was under the allowable 25% and proposed to cover 21.5% of the lot. Mr. Geller then discussed how the application met the C2 variance for benefits outweighing any detriment and that the new dwelling improved the setbacks that the former house provided and that they advance the purposes of zoning by creating an attractive and desirable environment and dwelling in addition to improving the frontage on the Branch Avenue with curbing and create a clean edge of pavement and a desirable appearance along that frontage along Branch Avenue that does not currently exist.

Mr. Geller continued by addressing the C1 aspects concerning the carport which are prohibited by the code and gave testimony as to why they believed the proposed carport was not the same as that provided for in the code as it serves several different uses including functioning as a breezeway which was defined by Webster's dictionary as a covered passageway between a house and garage and summarized by stating that the proposed space was not just a carport or a breezeway but a multi-purpose use area. Mr. Geller reviewed the requirements of what needed to be proved that the property use was appropriate and gave argument as to why the proposed space was multi-purpose and not solely a carport. Mr. Geller stated that another required proof was that it advanced the purposes of zoning and that the application meets the criteria for that by providing light, air and space, promotes a desirable and visual environment and the historic appeal of the proposed craftsman style dwelling and its compatibility with the surrounding neighborhood. Mr. Geller expressed further their belief that they had met the requirements for the variances and that there would be no substantial impairment to the zoning ordinance or the purpose of the Master Plan and that there would be no negative drainage and concluded his planning testimony.

Mr. Widdis asked Mr. Geller if he could describe the proposed dwelling. Mr. Geller referred to the architectural plans and described the floor plan of the house including location of bedrooms,

kitchen, garage, library/sitting area, the elevations of the structure and other various improvements and the square footage of all floors and garage.

Mr. Widdis asked Mr. Geller regarding his testimony that the surrounding houses with small lots and asked him to compare the size of the proposed house with those houses that are on smaller lots.

Mr. Geller answered that the proposed house meets the coverage of the zone and that it appears to be larger because of its design to suit the constraints of the lot.

Mr. Widdis asked if the size of the proposed house would positively or negatively effect the value of the smaller lots.

Mr. Geller answered that from Wolf Hill Avenue, because of its narrowness, would be the same as the other houses on narrow lots and that the depth was only viewable from the Branch side.

Mr. Widdis asked about the height of the house and if it were similar to the other houses.

Mr. Geller answered that the house was a 2-story house that met the requirements of a 2-story house and referred to the plan to point out the mix of homes and that the proposed house does not overstep the coverage or the allowable height and that it fits.

Mr. Geller then provided testimony to address Mr. White's review letter items including testing of the seasonal high water table and that there was an allowance of 12' clearance for the purposes of a basement that would be set at a minimum of 2' above the SHWT as no water was encountered.

Mr. White asked Mr. Geller that he indicated he did not come across any mottle or observed surface water elevation during the seasonal high typically in January and May.

Mr. Geller answered correct.

Mr. Geller continued and addressed Mr. White's letter on drainage and how the drainage was and would be directed and that there would be no impact on adjacent lots and that there would be a small area at the rear portion draining and less than 50% was currently draining there now and they believe all drainage was positive and would be away from other structures. Mr. Geller stated that Mr. White's letter items 3-5 were understood and would agree to comply.

Mr. Whitson wondered why the Applicant didn't call the space a breezeway from the beginning as it didn't sound like a carport to him as there was a 2nd floor over it.

Mr. Gervolino commented that there were steps they could take to comply with the code by elevating the floor of the space and not use it for level and using the garage for vehicles and not in the multipurpose space and not have a carport.

Mr. Geller answered that the Applicant wants the ability to pull a car into that space which was why they proceeded with the request for the C1 variance and they agree that the space does meet more of the aspects of a breezeway than a carport but would like the option to pull a car in there.

Mr. McCarthy asked if the concrete apron in front of the garage extended across the breezeway and asked how wide was the driveway.

Mr. Geller answered 25' and then fans out as it gets closer to the house.

Mr. Savarese commented that he had concerns with the space being a carport and would like it to be a breezeway and that he had a problem with granting a variance for a rear yard as he believed

the house could be designed to make it work and that he did not believe there was a hardship for the rear yard.

Mr. Savarese continued that there was a stairway coming from the garage to the 2nd floor on top of the garage and a pocket door which leads him to believe that there would be an in-law apartment or a tenant apartment and that the size of the house was not warranted in that neighborhood and there was concern that the space could be turned into an apartment when it was in a single-family zone.

Mr. Burdi answered that he understood his concerns but that it was not intended for a bedroom but solely as a study and the reason for the pocket door was for the ability to cordon off that part of the house when they have guests.

Mr. Savarese stated that he would be more inclined to see a guest area but the size and bulk of the house was a concern for him and that he did not see a hardship and that the design could be revised to meet the zone better.

Mr. Kleiberg commented that he did not like the carport and that a definition from Webster's dictionary was not where it should have come from and that they should have gone to the International Residential Code for the State of New Jersey whose definition of a carport matches the Borough's code and that code only allows for 2 places to park a car – in a garage or a carport – not a breezeway.

Mr. Burdi commented that they weren't trying to come back with a plan that said breezeway as they were trying to do things the right way and that no one knew about a carport not being allowed and that they had designed the house to the lot and other general comments about their intentions.

Mr. Fichter commented about the rear yard setback and the constraints on a corner lot.

Mr. Widdis opened the meeting to the public for questions or comments and as no one from the public wished to that portion of the hearing was closed.

Mr. Geller offered concluding remarks about the applicant's efforts to design a house suitable to the site and the neighborhood.

Mr. Savarese asked how the lot coverage was calculated and if it included the carport which Mr. Geller answered yes.

Ms. Flor commented on the setbacks and asked if the Applicant would consider revising the backyard to appease the Board member with the concern on the rear yard setback and how they could gain additional rear yard without changing too much and that she likes the look of the street and that she liked the carport breezeway because it made the house look smaller.

Ms. Flor made a motion to approve the application as presented. There was no second to the motion.

Mr. Savarese made a motion to deny the application commenting that he was concerned about the size and bulk of the house, that the applicant did not demonstrate that he could lessen the front yard or rear yard setback and that a carport was not allowed and that it was detrimental to the ordinance and that it should not be granted for something that was not a hardship.

Mr. Kleiberg seconded the motion. Ms. Smith called the Roll:

Mr. Whitson voted yes as he had concerns about the outside stairs and that if they were moved it would improve the application, liked the idea about the breezeway and understood the Board's concerns about a garage.

Mr. McCarthy voted yes as he shares the same concerns and that the plan creates two new variances that hadn't existed before.

Mr. Kleiberg voted yes as he did not like the idea of the carport and thought the size of the house to large.

Mr. Gervolino voted yes as he was concerned with the carport and if it were a breezeway he might think differently.

Ms. Flor voted no as she liked the idea of the breezeway as it made the house look smaller.

Mr. Widdis voted yes as he thought it would be an improvement to the area but the house was a little overbearing.

AYES: Mr. Whitson, Mr. McCarthy, Mr. Savarese, Mr. Kleiberg, Mr. Gervolino,
Mr. Widdis
NAYES: Ms. Flor
ABSTAIN: None
ABSENT: Mr. Ibex, Councilman Bertekap, Mr. Sullivan
INELIGIBLE: None

Ms. Smith stated the motion carried, application was denied.

RESOLUTIONS:

3. Neil Pisane - As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which, Mr. Whitson made a motion to approve the resolution which was seconded by Mr. Savarese and received the following roll call:

AYES: Mr. Whitson, Mr. McCarthy, Mr. Savarese Mr. Kleiberg, Mr. Gervolino, Ms. Flor
NAYES: None
ABSTAIN: None
ABSENT: Mr. Widdis, Mr. Ibex, Councilman Bertekap, Mr. Sullivan
INELIGIBLE: Mr. Fichter

PETITIONS FROM THE PUBLIC: None

ADJOURNMENT: As there was no further business, the meeting was adjourned at 8:42 p.m. on a motion by Mr. McCarthy which was seconded by Mr. Whitson and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary