



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • MAY 10, 2022

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 7:00 PM
- II. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by adequate and electronic notification on January 20, 2022 of this meeting and its location, date and time to the Asbury Park Press 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 10:00 P.M.; no new testimony will be taken after 10:30 P.M., except at the discretion of the Board.

Chairman Whitson took time to thank Board members for their volunteer service which can be a thankless job at times; he also acknowledged and thanked Board member Widdis for his help.

V. **Roll Call:**

Attendee Name	Title	Status	Arrived
James Whitson	Chairman	Present	
John (Jack) Kahle	Vice Chairman	Absent	
Patty Cooper	Mayor's Designee	Present	
Thomas Tvrdik	Class III	Absent	
Joseph Foster	Environmental Commission Liaison	Absent	
Christopher Widdis C	Class IV	Present	
Robert Kleiberg	Class IV	Absent	
Darren Davis	Class IV	Present	
Michael Dailey	Class IV	Present	
Leslie B Widdis L	Alternate I	Present	
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 that pending applications have slowed with 3 applications currently being reviewed – mostly pools in front yards. Chairman Whitson asked the Board if there were any objections to cancel the June 14, 2022 meeting for which there were no objections.
- Mayor & Council Referral - Fort Monmouth Plan Amendment #18 – Mr. White provided a brief summary of the proposed plan amendment for the nurse's quarters that would permit an additional 10 townhomes to the site and design standards, setbacks, ingress/egress, no use of Stephenson Avenue for access as it remains privately owned by AcuteCare,
The Board discussed the Plan Amendment at length with questions and concerns for items including building height only 15 feet from Main Street, covered patios, setback increase in the front setbacks on Main Street in accordance with other Main Streets prevailing regulations, concerns not consistent with the Borough Master plan and that the front setbacks do not meet the Boroughs code requirements, concerns about the sign height and number of units per acre, 40' building height versus 35', will the affordable housing units designated be 1-, 2- or 3-bedroom units.
- Referral from Governing Body - Land Development Ordinance Amendment- The Planning Board has been referred by the governing body to review the Ordinance and determine whether it's consistent with master plan. The Borough planner has said that the plan is consistent with the Borough's master plan as far as sustainability goals and the provision for the health, safety and general welfare for the public. The governing body doesn't have much say with this ordinance, it's mostly state mandated. All municipalities in the state of NJ are required to currently enforce this ordinance, the Borough is mandated by state statute to adopt.

VII. Approval of Minutes:

1. Planning/Zoning Board - Regular - Mar 22, 2022 7:00 PM

RESULT:	ACCEPTED [5 TO 0]
MOVER:	Darren Davis, Class IV
SECONDER:	Patty Cooper, Mayor's Designee
AYES:	Whitson, Cooper, Davis, Dailey, Widdis L
ABSENT:	Kahle, Tvrdek, Foster, Kleiberg
INELIGIBLE:	Widdis C

VIII. Old Business:

1. PB2022-06 Tennenbaum, Kent & Celia – Mr. Kennedy advised that the Applicant's had determined to file a compliant plan and no longer seeking variance relief and thus a resolution to dismiss was before the Board.
2. **PR-22-18** Resolution of Dismissal - Tennenbaum, Kent & Celia

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael Dailey, Class IV
SECONDER:	Darren Davis, Class IV
AYES:	Whitson, Cooper, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Kahle, Tvrdek, Foster, Kleiberg

3. **PR-22-19** Resolution of Approval - 82 Tecumseh Ave - As the resolution was provided in advance of the meeting, Mr. Kennedy summarized the resolution and its conditions which was moved for approval by Mr. Davis, seconded by Mr. Widdis.

RESULT:	ADOPTED [5 TO 0]
MOVER:	Darren Davis, Class IV
SECONDER:	Christopher Widdis C, Class IV
AYES:	Whitson, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Kahle, Tvrdek, Foster, Kleiberg
INELIGIBLE:	Cooper

IX. New Business:

1. PB2022-08 Molino, Bruno
Block 12, Lot 13
144 Monmouth Blvd
Proposed installation of in-ground pool and patio seeking relief for impervious coverage of 47.4% where 37% permitted and proposed 6' setback from the attached deck to the pool does not comply with the 10' required setback.

EXHIBITS:

- A-1 Land Development Application
- A-2 "Proposed Swimming Pool Topography Plan," (3 Sheets), prepared by Martin G. Miller, III, PE & LS, dated 10/20/21
- A-3 "Plan of Survey", prepared by Leeper Land Group, LLC, dated September 23, 2021
- A-4 "Pool Shop Drawing", prepared by prepared by Martin G. Miller, III, PE & LS, dated 09/01/21
- A-5 Colliers Engineering & Design Review Letter dated April 14, 2022
- A-6 Photograph of Subject Property
- A-7 Photograph of subject property/home, taken on or about March of 2022

- P-1 Picture of the existing property, taken by neighboring property owner, Sara Londo on or about May 7, 2022.
- P-2 Picture of the existing property, taken by neighboring property owner, Sara Londo on or about May 7, 2022.

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice, hearing no objections, 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 persons were sworn in: William White, Board Engineer/Planner; Martin Miller, Applicant's Engineer and Bruno Molino, Applicant/ Owner.

Mr. Widdis asked if the shed on the property will be part of the variance. Mr. Kennedy said the shed appears to be closer to the sidelines and rear line than is allowed. Mr. Kennedy asked when was the shed put in and was there an approval for the shed. Ms. Smith advised she had reviewed the zoning records and found no variance approval for the property for a shed.

Martin G. Miller, Applicant's Engineer, gave his credentials as a licensed engineer, surveyor, planner, and certified municipal engineer. Mr. Miller gave the Board a picture taken of Mr. Molino's deck exhibit A-6 to show the Board that the distance from the deck to pool is not over the coverage. Mr. Miller said the impervious coverage permitted is 37%, existing is 38% - they are proposing a swimming pool with concrete that will add an additional 8.8% coverage. Mr. Miller said they're proposing to install the pool and minimize the amount of concrete around the pool to try to offset the impervious coverage existing and proposed. Chairman Whitson asked what is the total impervious coverage being proposed? Mr. Miller responded the total is 47.4%. Mr. Miller added that they can take care of the runoff for the whole backyard because there is an existing inlet in the middle of the rear backyard that all drainage is directed to - its collected by a landscape step in front of the inlet which collects all the water so it does not run into neighbors yards.

Chairman Whitson asked if there were questions from the Board.

Mr. White stated that in 2019 a sport court was approved for 30'x30' with side yardin 2019 and it was only approved for a 30x30 court, side yard set back at 10', rear yard at 5' but the existing sports court encroaches over the rear property line and is less than 10' from the side yard - about 4'. Mr. Molino testified that the sports court was 30x30 but possibly the pavers he put in around the court was what he was referring to and the pavers go right up to the fence according to the property survey. There was discussion about the rear yard line, existing fence was new placed in exact location as the old fence but was outside of property line. He was not aware when he purchased the property that he needed a survey or approval for the fence.

Mrs. Cooper asked when he got approval for court did he have approval for pavers? Mr. Molino said he thought he was approved for the pavers. Mr. White said he was approved for 30'x30'. Mrs. Cooper questioned ways the Applicant could reduce the impervious coverage of 47.4% being sought and would like to see it reduced by about 8%.

Mr. Davis asked expressed similar concerns considering the large area of the backyard and the number of existing accessory structures, the court that obviously exceeds the 30'x30', questioned the effectiveness of the drainage plan and where the water goes, shed on the line, retaining wall near the rear inlet. There was discussion on the elevation data, the datum used, the various grades, the proposed spillover.

Mr. Miller submitted photographs of the rear yard, the rear inlet and along the wall and landscape ties taken by Mr. Miller's office about 2 months ago which were marked as **Exhibits A-6 and A-7**.

Ms. Barham-Widdis had no questions but commented that she had a big issue with the application for what was a huge lot and there's a reason that the town has a 37% lot coverage and she sees no good reason why the Applicant isn't reasonably able to fit everything they want. The lot is not oddly shaped and no special circumstances here other than the Applicant wants to fit way too much stuff on a decent sized backyard - there's a shed, basketball court with pavers around it, patio with hot tub, deck and doesn't find any circumstances that warrant the variance.

Mr. Widdis commented that there was a bit too much for this property - the proposed pool being sought was 22'x40' along with the basketball court; expressed concerns for the drainage and felt it would be poor planning.

Mr. Dailey commented he had the same concerns.

Chairman Whitson commented that he had same concerns about how the property was being utilized and found no compelling reasons to permit the proposed coverages.

PUBLIC: Chairman Whitson opened the meeting to questions for this witness only.

Sarah Londo, 149 Monmouth Blvd, stated that she was the adjacent property owner and has photographs that show where the water goes on to her property and asked if the Board just allows this to go through as she has water damage and needs the Board's help.

Chairman Whitson advised that this was for questions of the engineer only at this time and asked for any other members of the public with a question. Hearing none, that portion of the meeting was closed.

PUBLIC: Chairman Whitson opened the meeting to comments on the application.

Sarah Londo, 149 Monmouth Boulevard, submitted and described photographs of her rear yard which were marked as **Exhibits P-1 and P-2** and testified they are a true depiction of the conditions on the site. Ms. Londo testified that she had received the hearing notice but was unable to secure a professional on her behalf with the limited time. She described the history of the water drainage issues and the increase in standing water since the Applicant's installation of the court and urged the Board to consider a solution to the drainage matter.

Ms. Cooper asked Mr. Molino if he had spoken to his neighbor. Mr. Molino responded that he has been there for 16 years and he was aware of a water problem before the Court. He did speak with the neighbor to the rear about the drainage before the court and the installation of the inlet.

Mr. Molino further testified that he was aware that he was the impervious coverage limit and that the variance process was to obtain permission to go beyond it; he offered to have an engineer prepare a drainage plan if that can be done and he would be happy to improve Ms. Londo's situation and prevent any situation with the neighbors. He would like to complete the project and remedy the

drain issue.

Mr. Miller testified that one of the ways the runoff could be minimized was by installing an infiltration trench to connect to the inlet and be taken away by that but they would still be over the maximum.

Ms. Barham-Widdis commented that she sees the issues as two separate items. One is the water situation – a major drainage issue and the other is the lack of any demonstration of hardship for lot characteristics to justify variance relief.

Mr. Dailey commented that he would like to see a drainage plan that would improve the drainage issue in the rear of the property and see some reduction in the requested relief.

Ms. Cooper commented that she would like to see the shed moved to a compliant location.

Mr. Widdis asked if the notice was sufficient to address that which Mr. Kennedy reviewed the notice and advised yes, it was sufficient.

Mr. Davis commented that he would like to see a reduction in the coverage in the rear yard – perhaps remove pavers, make some type of reduction, address issue with the neighbors and prepare a drainage plan that works. The lots in that neighborhood are designed to drain to the rear yard where there is a common drain that all neighbors drain into but the subject property has it blocked with a retaining wall and there's a basketball court completely blocking the flow of water from Ms. Londo's property. There was discussion with Mr. Molino on the hindering structures and the impacts to the flow of the water.

Chairman Whitson summarized for the Applicant that they are looking for revised drainage plans to show property drainage off the neighbor's property.

Ms. Cooper commented her concerns regarding the extent of structures in the rear, non-compliant setbacks for the shed.

Mr. Widdis asked if the setbacks for the court were compliant. Mr. White responded that it was an accessory structure and needed to meet those requirements. There was discussion about the pavers up to the property line and if the court was in the correct location.

Ms. Barham-Widdis urged the Applicant to also work with the neighbor to alleviate her concerns.

Mr. Molino requested to adjourn the hearing in order to prepare revised plans with the understanding that revised plans need to be resubmitted a minimum of 10 days in advance of the hearing date.

Mr. Kennedy asked Mr. Molino to consent to an extension on the timeframe for a Board decision which Mr. Molino agreed.

Motion to Carry Application to July 12, 2022 with no additional notice required

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Christopher Widdis C, Class IV
SECONDER:	Patty Cooper, Mayor's Designee
AYES:	Whitson, Cooper, Widdis C, Davis, Dailey, Widdis L
ABSENT:	Kahle, Tvrdik, Foster, 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 8:41 pm on a motion by Mr. Davis which was seconded by Mr. Dailey and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary