BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● APRIL 28, 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 the audience 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	Remote	
Robert Kleiberg	Class IV	Remote	
Darren Davis	Class IV	Remote	
Michael Dailey	Alternate I	Remote	
Jacob Rue	Alternate II	Absent	
Jeanne Smith	Board Secretary	Present	
Kevin Kennedy	Board Attorney	Present	
William White	Board Engineer/Planner	Remote	

V. Board Business:

1. Minutes of March 10, 2020 were put off until the next meeting at the request of the Secretary with no objections.

Mr. Kennedy, Board Attorney, offered comments concerning the COVID-19 circumstances, review of State Guidelines for conducting this type of meeting, compliance with statutory requirements to conduct a legal hearing, the learning process and will continue to improve in such a way that we ensure that we are conscientiously adjudicating zoning applications in a legally sanctioned and transparent process. Appreciation was extended to the Secretary for efforts to put everything in place.

VI. Old Business:

2. PB2020-04 Area in Need of Redevelopment Investigation - CARRIED from March 24, 2020

Portions of Block 110, Lots 1, 4 - "Squier Hall", "McAfee Center", "Tech Campus South":

EXHIBITS:

A-1 Area in Need of Redevelopment Study, prepared by Phillips Preiss Grygiel Leheny Hughes, dated May 2019

A-2 Addendum to AINS prepared by Phillips Preiss Grygiel Leheny Hughes, dated March 2020.

A-3 Resolution of the Mayor & Council directing the Board to conduct Area in Need Investigation

Mr. Kennedy asked if there was anyone present, viewing or listening that had a question or comment concerncing the sufficiency of notice for this matter and provided the contact information to call, text or email, to which there were none. Mr. Kennedy described Exhibits A-1 and A-2.

Matthew Jessup, the Borough's Redevelopment Attorney, was introduced as well as Elizabeth Lehaney, Professional Planner from Phillips Preiss Grygiel Leheny Hughes LLC who prepared the Area in Need of Investigation Study and Addendum. Mr. Jessup provided an explanation of the process by which the Borough Council directed the Planning Board to conduct a study to determine if three parcels at the former Fort Monmouth military base known as Squier Hall, McAfee Center, Green Tech Campus met the criteria under the Local Redevelopment Law as an area in need of redevelopment. Mr. Jessup further explained that Ms. Lehaney has conducted that investigation and prepared a report for the Board's consideration. The Board will hold a public hearing and ultimately make a recommendation to the governing body. This process was not about what may be built on the properties or who ultimately made build something on the properties - that process comes later. If the properties are declared an area in need of redevelopment, the borough will prepare a Redevelopment. Plan which effectively becomes the Zoning for the area and that plan will come before you for your review and findings before it is finally adopted. If the Board determines that the area meets one or more criteria as an area in need of redevelopment after hearing Ms. Leheney's report, there's a resolution prepared for the Board that would memorialize its recommendation to the governing body.

Chairman Widdis asked Mr. Jessup how this benefits the town, would that be explained.

Mr. Jessup explained in greater detail the Redevelopment law which provides a broad array of powers to a municipality in connection with development of property that it does not normally have. Under traditional Municipal land use laws municipalities are more restricted in what they can do to encourage development on properties underutilized or just have not been developed over time. Those powers can only be exercised for Redevelopment when an area of land that has been determined to be an area in need of Redevelopment which is what they were trying to determine tonight. Next, a Redevelopment plan, which is a plan that will be adopted by the governing body so the municipality has the ability to negotiate directly with a developer instead of having to use multiple contracts law and go to the lowest responsible bidder. The municipality gets to direct the zoning along with a planning board's findings as to what's going to go there, what the density looks like, what the height looks like, the permitted uses. The municipality has the power in a Development Area to charge payments in lieu of taxes which are financially to the benefit of the town and more revenue than conventional taxes. The Squier Hall parcel was subject to a FMERA Plan Amendment that the Borough, not in conflict with that plan, has determined that through the powers of the Redevelopment Law, the site is able to achieve benefits that meet the goals of the Borough individually and financially and still comply with FMERA's zoning and plan.

Elizabeth Leheny, Professional Planner from Phillips Preiss Grygiel Leheny Hughes LLC was sworn in. Ms. Leheny provided her qualification and was accepted as an expert in planning. Ms. Leheny testified as to her investigation of the study area in May 2019 and the recent addendum prepared to reflect some changed conditions on the site. The study area encompasses a total of 63 acres and in May of 2019, it contained 24 buildings totaling approximately 300,000 square feet of office, R&D, Public Works, utilities storage, recreation and community facilities as well as open space natural areas up here that were former landfills. Since that time, May 2019, three buildings were demolished in the Squire Hall parcel at the end of 2019 leaving 21 existing buildings. Ms. Leheny provided a brief description of the buildings and their uses, dates of construction. In August 2019, there was a revision to the criteria which was expanded to include shopping malls and Retail and plazas that had been vacant but that doesn't affect this subject but should be noted for the record that the criteria listed in the May 2019 report are slightly different now. Ms. Leheny testified as to the criteria to be met for redevelopment, the characteristics of the site and how those met the criteria to be considered for redevelopment including obsolete laboratory uses, obsolete functionality for today's markets, poor layout, small interiors, windowless corridors, signs of mold and water damage. There's debris from the damaged walls and the ceilings and some of the buildings have attracted wild animals and animal carcasses have been found inside; lack of ventilation, light and sanitary facilities, excessive land coverage deleterious land use or obsolete layout or any combination of these or other factors are detrimental to the safety, health or welfare of the community. Buildings are vacant which qualifies them under criteria be of the Redevelopment statute. Criteria, B is the discontinuance of the use of a building or buildings previously used for commercial retail shopping malls or plazas. Further Criteria C is met on the site due to the vacancy, remoteness, topography among others as laid out in the report. They concluded in the May 2019 report that the study area in general met one of or a combination of the criteria B and C. An addendum was performed which reflects changes in recent months such as the building demolitions but believe that the changes that have occurred have not impacted the conclusions of our May 20 19 study and that these changes don't fundamentally change the characteristics of the area. And so we do believe it still meets the criteria for an area in need of Redevelopment.

Chairman Widdis asked for questions from the Board.

Ms. Cooper asked clarification – in order for the area to meet the need for redevelopment it must meet at least one of the several criteria and in your presentation and I believe it looks like it meets at least that, if not in some areas a few of the others. Am I correct in stating that it's correct? Ms. Leheny answered yes.

Mr. Foster commented that the McAfee Center was a very high-tech building and the building has uses that can be reused. What are her thoughts on that. Ms. Leheny answered, yes, but also companies want the latest and greatest.

Mr. Kleiberg asked Mr. Jessup was this something they could look forward to not dealing with FMERA. Mr. Jessup responded that this was a unique circumstance where FMERA and Oceanport are destined to co-exist for a little while longer.

Mr. Kahle asked how do the landfills come into play in a redevelopment zone – does the town take over responsibility. Ms. Leheny answered the Army will continue to have the obligation and responsibility.

Councilman Tvrdik asked about the remediation, have they done anything to remediate or cap the landfill. Ms. Leheny answered that there have been extensive remediation ongoing but she could not speak to the method which would come from FMERA.

Mr. Savarese asked why on the map Squire Hall was pink – not being renovated. Isn't it under renovation? Ms. Leheny answered – it's being gutted and is just a shell at this point.

Mr. Davis asked questions about who controls redevelopment, what party governs the Fort properties, use plan amendments, the relationship between FMERA and the Borough's governing body.

There was a lengthy discussion about the redevelopment process which Mr. Jessup reviewed with the Board and answered questions concerning Reuse Plan amendment process, use set by FMERA Reuse Plan, the purpose of the local governing body adopting a redevelopment plan which allows for certain financial tools to negotiate with developers and any conditions set by the governing body when contracting with a developer for a payment in lieu of tax, that process solely rests with the local governing body and provide the municipality with tools and power over the development.

Mr. Kennedy then described and marked Exhibit A-3 – the Council resolution authorizing the Planning Board to conduct the investigation and reviewed for the Board its role in the process; answered questions concerning the Board's time to respond.

b. PUBLIC HEARING on Area in Need Study

Chairman Widdis opened the meeting to comments and questions from the public on this matter.

While waiting for the public to comment, Councilman Tvrdik asked whether it was a conflict for him to participate as a member of Council. Mr. Kennedy responded he did not believe he needed to as the statute clearly envisions this extensive statutory process. Mr. Jessup commented that he agreed. Ms. Smith added that they are unrelated and abstention not necessary. That is the Council liaison's role representing on the Planning Board. Mr. Jessup added that he felt there was no conflict but if Councilman Tvrdik felt uncomfortable with it he could certainly abstain.

As there was no one from the public who appeared to comment, Chairman Widdis closed that portion of the meeting on a motion by Mr. Whitson, seconded by Mr. Kleiberg and unanimously approved by the Board.

c. Resolution for recommendations to Governing Body - Result of Area in Need Investigation Study

Mr. Jessup summarized the resolution recommending that the parcels known as Squire Hall, McAfee

Center and Green Tech campus be designated as a non-condemnation area in need of redevelopment. Mr. Whitson made a motion to adopt the resolution which was seconded by Ms. Cooper who commented that she believes that the parcels meet more than one criteria to be determined an area in need of redevelopment and is similar to what the Borough did for the old borough hall site and the Board needs to continue with the same action for the redevelopment of our community.

Motion to Approve Resolution PR-20-13

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

3. PB2019-14 Hager, Gary CARRIED from March 24, 2020

262 Arnold Ave

Block 76, Lot 27

Bulk variance(s) for construction of detached garage

EXHIBITS:

A-7 *Revised Engineering Plans, prepared by InSite Engineering, dated January 14, 2020, last revised March 23, 2020, consisting of 2 sheets*

A-8 *Revised Architectural Plans, prepared by Anthony Condouris, Architect, dated July 24, 2019, last revised March 23, 2020*

Mr. Kennedy stated this was a continuation of a hearing, and while everyone was eligible to participate and ask questions, some members were not eligible to vote having not heard the first part of the hearing.

The following parties were sworn for the record: Gary Hager, Applicant and Owner, Doug Clelland, Applicant's Engineer, Anthony Condouris, Applicant's Architect and William White, Board Engineer/Planner.

Mr. Clelland summarized revisions made to the plan in response to the Board's comments including reduction in building height, relocated garage to side yard and is no longer in the front yard, overall dimensions reduced from 20x35 to 22 x 34 which eliminated the need for accessory building coverage variance, and the removal of the existing shed. Remaining variances being requested are side yard setback and height of accessory structure.

Chairman Widdis invited questions from the Board.

Mr. Whitson asked about the utilities for heat and plumbing which were an issue at the last meeting. Mr. Clelland responded that the plan was revised for electric service only.

Mr. Kleiberg asked what size electric would be run and 7 ½' gives you a habitable attic. Mr. Clelland and Mr. Hager assured him that no one would be living in the attic.

PUBLIC: Chairman Widdis opened the hearing to questions from the public. As there were none, Chairman Widdis closed that portion of the meeting.

Mr. Condouris spoke to the architectural changes for the plan including the attic at 7' height measured from the attic floor to the underside of the collar ties; the pitch of the roof which now more closely matches the house, the location of the stairs to the attic.

Chairman Widdis invited questions from the Board.

Mr. Dailey commented that they be sure that the collar ties are put at seven feet so he doesn't exceed during construction the height of the finished ceiling.

PUBLIC: Chairman Widdis opened the meeting to comments/questions from the public. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

Mr. Kahle expressed concern that consideration be made for any runoff water to the park next door and causing any damage.

Ms. Cooper made a motion to approve the application based on the changes presented and thanked Mr. Hager for listening and addressing the Board's comments which was seconded by Mr. Foster and received the following roll call. Mr. Kennedy summarized the conditions of the approval.

Motion to Approve PB2019-14 with conditions

RESULT:	**ADOPTED [8 TO 0]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Whitson, Cooper, Foster, Kahle, Savarese, Kleiberg, Davis, Dailey
ABSENT:	Rue
INELIGIBLE:	Widdis, Tvrdik

4. PB2020-06 Grimley, Christina CARRIED from March 24, 2020
   8 Fairfield Avenue
   Block 125, Lot 4.02
   Variance relief for rear yard setback for proposed pergola

EXHIBITS:

A-1 Land Development Application
A-2 Zoning Denial Letter
A-3 Pergola Details, 2 Sheets
A-4 Survey of Property prepared by Thomas P. Santry, P.A., dated July 7, 1997
A-5 Plot Plan, prepared by Applicant, hand-drawn on Exhibit A-4

Mr. Kennedy described and marked Exhibits A-1, A-2, A-3, A-4 and A-5.

Christina Grimley, Applicant and Owner was sworn in as well as Mr. White, Board Engineer/Planner.

Mr. Kennedy solicited general information from Ms. Grimley regarding ownership of the single-family dwelling.

Ms. Grimley described for the Board her plan to install a 16'x24' pergola over her existing patio, attached to this house and its characteristics which requires a rear yard setback of 25' where she is requesting 21'. Mr. Kennedy asked if she could explain why she was unable to comply with the setback. Ms. Grimley answered that in order for it to provide sufficient sunscreen it needed to be 16' which does not meet the setback.

Chairman Widdis asked for clarification on the size as the plan shows 18' x 24'. Ms. Grimley responded that was the size of the patio, not the pergola. Chairman Widdis asked if there would be electric and was told no, there's no need for electric.

Chairman Widdis invited questions from the Board.

Mr. Foster asked about the landscape of the rear yard and was told the entire backyard is surrounded by arborvitaes.

Councilman Tvrdik asked if it was a deck or concrete patio it would sit on and was told concrete patio.

Mr. Kleiberg asked when the patio was put in and was told early 2000's and she has a permit for it.

PUBLIC: Chairman Widdis opened the meeting to questions from the public. As there was no one from the public presented for this Chairman Widdis closed this portion of the meeting.

There was some discussion as to why it was attached to the house making it need to the principle rear yard setback. Mr. White added that the house itself was 37' from the rear line and with the 16' pergola attached to the house it requires the 21' setback.

Councilman Tvrdik asked if the pergola had been fastened to the patio and not the building would she require a variance and was told no. However, attachment make the structure more stable.

Mr. Kahle asked if she has a slab that she has a permit which was closer why did it need a variance. Mr. White responded that the slab is not considered a structure.

Mr. Savarese asked if it would ever be enclosed in the future and was told no.

Ms. Cooper made a motion to approve the application which was seconded by Mr. Kleiberg and received the following roll call.

Motion to Approve PB2020-06

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

VII. New Business:

5. PB2020-10 Rapuano, Jennifer
   66 Algonquin Ave
   Block 16, Lot 2
   Variance relief for rear yard setback for proposed deck

EXHIBITS:

A-1 Land Development Application

A-2 Zoning Denial Letter dated August 21, 2019

A-3 Survey of Property prepared by Charles Surmonte, PE/PLS, dated March 22, 2018, with hand written notes of proposed deck

A-4 Deck Details, prepared by Applicant, undated, 1 Sheet

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice for which there were none. Mr. Kennedy next described and marked Exhibits A-1, A-2, A-3 and A-4.

Jennifer Rapuano and Robert Rapuano, Applicant and Owners, was sworn in along with Board Engineer/Planner William White.

Mr. Rapuano testified as to general information on ownership of the property, time of ownership and that it was a single-family home. Mr. Rapuano described the application for the installation of a 20' x 25' deck at the rear of the property needing relief from the rear yard setback. The home had to be raised and the current landing is small and not high enough.

Chairman Widdis asked Mr. White if he had any questions or concerns. Mr. White stated he had no engineering questions and stated that the property currently has a 35.8' rear yard setback and with the deck were seeking a 15.8' setback. Mr. White asked the applicant to demonstrate the hardship reasons for the deck size. Mr. Rapuano answered that the backyard gets very wet, there's a storm drain on the lot and with two girls the deck would allow them to utilize the yard more and the size would accommodate grill and other accessories for entertaining. There was discussion regarding whether the deck size could be reduced.

Chairman Widdis invited questions from the Board.

Ms. Cooper asked if the existing stairs were wood or mason and had they considered putting the stairs on the other side so the deck could be longer and not wider. Mr. White opined if it were the same square footage and complied with the impervious coverage maximum.

Mrs. Rapuano stated that the reason they wanted to go out was to cover the swampy area of the yard.

Mr. Foster asked about the rear yard and the fence was it the neighbor's? Ms. Rapuano further testified that the neighbor to the rear has a fence along the rear line with trees and bushes and the subject property currently only grass.

Mr. Kleiberg asked the height of the deck and was told currently 48". Mr. Kleiberg thought it would be better not to go out and to go wider too.

Mr. Savarese agreed with Ms. Cooper about the smaller depth deck but understands the hardship of the swampy yard.

Mr. Davis commented that the steps coming out the backdoor should drop down a bit but agreed with the 20' x 25' deck and cover the "dead" land. Mr. Rapuano spoke to the 2 steps and that visually they felt it would be better the way proposed.

Chairman Widdis requested a landscape buffer on the rear yard line for at least the length of the deck and he would be okay with the proposed 20'x25'.

Mr. Foster asked Mr. White what would be an appropriate buffer. Mr. White commented arborvitae or evergreen material that would provide a year-round buffer. The Applicants would work with Mr. White on the landscaping.

PUBLIC: Chairman Widdis opened the meeting to the public for comments or questions. Ms. Smith confirmed that there were no calls, emails or raised hands. As there were none, Chairman Widdis closed that porton of the meeting.

Councilman Tvrdik made a motion to approve the application as presented with the condition of the 25' buffer of landscaping which was seconded by Ms. Cooper. Mr. Kennedy summarized the general conditions.

Motion to Approve Application with conditions

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

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

   Seeking d(l) Variance relief for density of 12.3 units/acre for this proposed two family, where a maximum density of 6.3 units/acre is permitted; Bulk variances for: (i) existing lot size of 7,074 square feet, where 14,000 square feet is required for a two (2) family residence; (ii) minimum lot width of 4 7 .17 feet existing and proposed, where 140 feet is required; (iii) proposed impervious coverage of 56.53%, where a maximum of 40% is permitted; (iv) proposed side setback for driveway of O feet, where 5 feet is required; and (v) minimum habitable floor area per family of 456 square feet on the first floor and a total of 865 square feet proposed for Unit 1, and 596 square feet on the first floor and a total of 1,138 square feet proposed for Unit 2, where 1,000 square feet on the first floor and a total of 1,450 square feet is required

Due to the lateness of the hour and business remaining, Mr. Brodsky, Attorney for the Applicant, requested that the Board accept jurisdiction and carry to the next meeting.

Chairman Widdis acknowledged the public in attendance and recognized Mr. Burley. Mr. Burley asked if the Board had received the email question from the church and was told yes. He had no objections to holding the hearing until May 12 meeting as long as the construction is on hold until then. He was advised that some work could not be stopped by the Board as it did not fall under the Board’s jurisdiction. Ms. Smith advised that concerns with the parking lot being used that the code enforcement officer be contacted. Additionally, Mr. Brodsky stated that the Applicant would comply with the law.

As there were no objections from the Board, Chairman Widdis announced that this matter would not be heard that evening and would be carried to the May 12, 2020 meeting with no additional notice required.

VIII. Petitions from the Public: Chairman Widdis opened the meeting to Petitions from the Public. As no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

IX. Adjournment: As there was no further business, the meeting was adjourned at 10:10 pm on a motion by Mr. Whitson which was seconded by Ms. Cooper and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary