OCEANPORT PLANNING BOARD
MINUTES
April 28, 2015

Chairman Widdis called the meeting to order at 7:30 p.m. and gave the Statement of Compliance with the Open Public Meetings Act: "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 29, 2015, and by the posting of same on the municipal bulletin board and Borough Web Site."

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mayor Mahon, Councilman Gallo, Mr. Kleiberg, Mr. Kahle, Mr. Sullivan, Mr. Whitson, Mr. Savarese, Mr. Widdis

MEMBERS ABSENT: Mr. Johnson, Mr. Fichter

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

BOARD BUSINESS:

1. Minutes of the meeting of March 10, 2015 were approved on a motion from Mr. Whitson and a second from Mayor Mahon and approved by the eligible Board members.
2. Minutes of the meeting of April 14, 2015 were approved with corrections on a motion from Mr. Whitson and a second from Mr. Kleiberg and approved by the eligible Board members.

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OLD BUSINESS:

3. PB2014-07 Parent, Kimberly — CARRIED from March 10, 2015
   23 Branch Avenue — **REQUEST to CARRY to May 26, 2015**
   Block 139, Lot 44
   Request for Minor Subdivision with Variances

Chairman Widdis advised that the application would not be heard as the Applicant had requested to carry the hearing to the May 26, 2015 meeting. Chairman Widdis directed Ms. Smith to advise the representing attorney that any future requests for adjournment would not be granted without new notice being provided.

Chairman Widdis reviewed the Agenda items and advised that the Agenda order was being changed and that the Board would hear the 255 Monmouth Blvd application first.

NEW BUSINESS:

4. PB2015-09 Sheridan, Kyle & Meghan
   255 Monmouth Blvd
   Block 76, Lot 25
   Request for Bulk Variance(s) for installation of a pool

The following persons were sworn in: Kyle and Meghan Sheridan, Applicants, Charles Surmonte, Engineer and Surveyor and William White, Board Engineer and Planner. Mr. Surmonte having been previously before the Board was accepted as an expert in engineering and surveying.

Mr. DeNoia stated for the record that notice had been reviewed, was in order and the Board had jurisdiction.

Chairman Widdis asked if the Sheridan's owned the property and was told yes. Chairman Widdis asked

for clarification as the agenda shows the property as 255 Monmouth Blvd and Mr. White's letter refers to it as 250 Monmouth Blvd. Mr. White stated a typo on his part.

Mr. Sheridan stated that they were looking to change their backyard as they lost their home due to Sandy and that it was a good time to make a change to the backyard, that they had 2 children and one on the way and wanted to be able to enjoy their backyard and provide a safe place for the children. He testified that they had changed things with Mr. White recently with regards to the backyard with regards to the swales going out to Driveway so lead directly behind so there would be no issues with any of the neighbors with regards to water issues. Mr. Sheridan continued that the back retaining wall they dropped just so the water flows correctly down to Driveway as opposed to each of the home. The driveway is obviously a 3' setback and are proposing a 10' just to maximize the backyard, obviously the fence would be in there as well and also the retaining wall which was 1.5' and 2' and want to be able to use their backyard which is unusable right now with the slope. They started planning back in October and took 2 months and then getting everything in order for the Board and were hoping to start the project sometime in May and obviously could use the backyard at that point.

Chairman Widdis asked how far were they from Driveway, realized he had looked at 250 and asked if where it was in relation to them and was told across the street. Mr. Sherdian explained that their challenge was that they have 2 front yards with Driveway being along their backyard and they are the house 2nd closest to the park.

Chairman Widdis asked for Mr. White's comments. Mr. White asked for Mr. Surmonte to explain the drainage pattern.

Mr. Surmonte testified that when the house was rebuilt they had to construct somewhat elevated so the finished floor of the house sits about 7-8' above both Monmouth Boulevard and Driveway, the grading around the house as it relates to Driveway, the grade at the back of the house was about 3' above the roadway and that they were somewhat restricted as they had only about 30' between the house and Driveway. Mr. Surmonte continued that from a grading perspective they were trying to set the elevation of the backyard improvements – the patio and the pool at a good balance between not being exceedingly low to the house and not too high to the surrounding properties and were looking to elevate the pool and patio 1.5-2.0' above the existing grade. The drainage, the house sits at the high point of the lot and the lot drains away in all 4 directions, along each of the side yards there was a peak at the mid depth and then the drainage runs both to Driveway and Monmouth Boulevard. Mr. Surmonte stated that at Mr. White's suggestion, he brought a modified plan proposing to run walls down each side property line about 2' in height. Originally they had the wall all at one height so that everything drained away in 3 directions but at Mr. White's suggestion they decided to lower the wall at Driveway so they could keep the drainage within the property and direct it all to Driveway rather than have any drain off over the top on to the adjacent properties. Mr. Surmonte further testified that the roof leaders from the front of the house drain out directly to Monmouth Blvd. and that all the drainage from impervious surfaces both the back half of the roof and the proposed patio would drain directly on to Driveway and less runoff then what is presently occurring would be directed to either of the side yards. The neighbors on either side may even experience a bit of a drainage benefit with the proposed plan over what is currently existing.

Chairman Widdis asked for the size of the pool and was told 12'x30'. Chairman Widdis stated then you're saying that you're going out 20' in total? Mr. Surmonte answered that the house was setback 32' and the pool would be 10' off the house and 10' off of Driveway and 12' wide.

Chairman Widdis asked if there was a lighting plan as they were close to the street and neighbors as it was a concern not to impact the neighbors. Mr. Sheridan answered nothing in regards to lighting, the electric is what it is – there were 2 single lights on either side of the door and that was it.

Chairman Widdis asked where all the “stuff” for the pool would go. Mr. Surmonte answered on the right side of house next to the 2 AC units. Mr. Kleiberg asked if the 2 AC units were there now and was told yes.

Chairman Widdis asked in Mr. White’s letter it mentions a fence that would go along the top of the wall and that it notes it would be 50% solid no higher than 4’ and Mr. White states that the proposed aluminum fence was clearly more than 50% solid. Mr. White added that the detail provided shows something that looks like its more than 50% solid and if they had a more open fence they would be in compliance.

Mr. Surmonte responded that the intent was that the fence would be more than 50% open and would comply.

Chairman Widdis asked for questions from the Board.

Mr. Kleiberg asked how far the grill would be from the house, it won’t be up tight to the house and was told correct. Mr. Kleiberg also added that the fence would have to be non-climbable. Mr. Savarese commented that the detail looked like a jarrod fence, like a picket which was probably 70-80%.

Mr. Savarese stated he didn’t like that the fence was right up on the edge of the pavement and would like to see the retaining wall pushed back 2’ and the fence on top of the retaining wall at that point so as to provide a planting area and not be so imposing on Driveway. Mr. Surmonte answered that Mr. White had originally expressed that as well but the Sheridans were trying to maximize the area of their backyard. Mr. Kleiberg asked what Driveway has for a curb and was told it did not have any. Discussion ensued on the negative impacts to having the wall and fence right at the roadway. Mr. DeNoia asked for it to be articulated what they wanted.

Mr. Sheridan responded that they recognized the challenges but really wanted to maximize the use of their backyard.

Mr. DeNoia stated that it was his application and that he was entitled to make whatever application he desires and if the Applicant wants to leave it the way it was that’s what the Board would vote upon and hopefully he would get an approval of that but the Applicant would have to decide if the Board’s comments were something he wanted to consider.

Mr. Surmonte stated that he didn’t see it being a problem on the left side – Driveway, and maybe they could reconfigure the pool but it was a little tight on the east side but offered that they may be able to shift everything. Mr. Savarese commented that they might be able to take it so its parallel to Driveway – leave it where it is on left side but scale back on the right side to give some breathing room.

Mr. Kahle commented that he had concern with the wall being right on the road and was a big consideration for plowing in the winter and parking on the road but that had to be considered.

Mr. Whitson had no other questions but he too expressed concerns with the wall.

Mr. White stated he wanted to clarify that they were looking for 2 variances – pool in the front yard where 30’ required, 10’ proposed as well as a 0’ setback for the retaining wall where 10’ required.

Chairman Widdis asked if there would be a walkway of stairs down on the east side. Mr. Sheridan answered the steps by the grill were currently there. Chairman Widdis stated he’s asking about the east side. Mr. Surmonte answered that there was slightly sloped and there may be one step.

Chairman Widdis then redirected back to the question on the wall.

Mr. Sheridan reiterated their desire to have maximize their space and move forward with the present plan, however, taking the Board's comments into consideration, they would like to proceed forward with this plan and that with regards to the neighbors he had spoken to all the neighbors including the 2 properties behind them and they were thrilled with what was being proposed.

Chairman Widdis asked then you want to go with the present plan and not move it over a bit.

The Applicant conferenced with Mr. Surmonte. Afterwards, Mr. Sheridan stated they were open to the recommendation to move the wall in and hold the sidelines where they were at.

Chairman Widdis commented so to be clear they want the east and west to stay the same and tuck in on the corner.

Mr. Surmonte stated they would pull the wall back 2' off of Driveway for a 2' setback where 10' required.

Mayor Mahon asked if the fence could be cordoned to the top of the block wall as opposed to set behind it. Mr. White answered no, typically the blocks were pinned together and it would pop right off.

Mr. White also pointed out that the Applicant had put in their notice to have the fence as is – with the greater than 50% so that should probably be clarified.

Mr. Sullivan stated that it was a jarred fence which was very open which Mr. Surmonte confirmed yes.

Mr. DeNoia stated so the notice was for 3 variances but they were only requesting 2. Mr. Sheridan answered correct, they were not seeking a variance for a fence that was more than 50% solid.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions or statements. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Mr. DeNoia asked Mr. White to articulate again the 2 variances being requested. Mr. White responded that a variance was needed for the front yard setback 30' required, 10' proposed and variance for retaining walls required to be 10' off of all property lines whereas Applicant proposes retaining walls on the property line on 3 property lines to the north, east and west. Chairman Widdis asked for the record what would be the height of the wall. Mr. Surmonte answered would max out at 28" at 2 points. Mr. Whitson stated that the wall wouldn't be on the property line on one side which was changed. Mr. White answered correct – on the north side it would be 2' off of the Driveway right of way and variance for the fence was withdrawn.

Mr. Savarese made a motion to approve the application plan as modified and for variances as described by the Engineer which was seconded by Mayor Mahon and received the following roll call:

AYES:	Mr. Whitson, Mayor Mahon, Councilman Gallo, Mr. Sullivan, Mr. Kahle, Mr. Kleiberg, Mr. Savarese, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Johnson, Mr. Fichter

Ms. Smith stated the motion carried.

5. PB2013-05 Ardito, David & Lisa
   477 Driveway
   Block 76, Lot 12.01
   Request for Bulk Variances for retaining wall and impervious coverage

A-1 Site Plan for the Ardito Residence, prepared by DJ Egarian Associates, Inc., dated April 15, 2015
A-2 Preliminary Landscaped Rendering Site Plan prepared by Caribbean Blue Pools and Spas dated September 22, 2014
A-3 3D Renderings of Ardito Residence prepared by Caribbean Blue Pools and Spas dated April 28, 2015, 2 Sheets

Mr. DeNoia stated for the record that notice had been reviewed, and was in order with the exception of a transposition in the newspaper of the block and lot however, the address was shown correctly and the individual notices were done correctly, did not determine it to be a significant and fatal error and the Board accepted jurisdiction.

The following persons were sworn in: David and Lisa Ardito, Applicant and Owners, Jeffrey Egarian, Professional Engineer and Mark Nissim, Licensed Landscape Architect. Mr. Nissim presented his qualifications, appearances before other Boards and was accepted as an expert in landscape architecture. Mr. Egarian presented his qualifications, appearances before other Boards, educational background and was qualified as an expert in engineering.

Mr. Whitson asked for clarification on the lot number being considered as the survey shows lot 12 but agenda shows 12.01. Mr. White answered that Lot 12 is from before the lot was combined by subdivision with adjacent property owner creating Lot 12.01 and that Lot 12.01 was the correct designation.

Mr. Ardito commenced his testimony with the history of the property under their ownership, the purchase of additional land from an adjacent landowner, their original design plans, the impacts of Super Storm Sandy and hence changes in the zoning ordinance requiring changes to their design plans, process with State for CAFRA permitting and the problems with previous professionals producing flawed work product that required them to come back before the Board for variance relief on impervious coverage which they had originally believed would not need relief and for proposed retaining walls on the north and south side property lines which were required to have a 10' setback. Mr. Ardito further testified that the plan before them indicated an impervious coverage of 55% where 40% permitted which they had reworked and gotten down to 43%. Mr. Ardito also advised of a portion of the property that they wanted to bulkhead which DEP would permit but would not authorize any backfill rendering it pointless. As a result they proposed and was permitted by DEP a retaining wall but because the lot is so low at that point the retaining wall would be very high there.

Chairman Widdis asked the Applicant to outline the variance relief being sought and address the front yard setback.

Mr. Ardito stated they were seeking relief for impervious coverage 43.1% proposed, 40% allowed; retaining walls on the north and south property lines and knew nothing about the front yard setback.

Mr. White responded that a front yard setback variance would also be needed as the front stairwell was shown having a 29.3' setback where 30' required.

Mr. Egarian advised that the number was based on 390.14(b) the averages…Mr. White stated there were 2 requirements for the front yard setback – the average for 200' in both directions and the minimum requirement of 30' whichever was the greater number of those measurements would rule and therefore a variance was needed for the front yard setback and asked Mr. DeNoia to confirm that that would be covered by the notice 'catch all' of any and all other variances as the Board deemed necessary which Mr. DeNoia answered correct. Mr. Egarian then requested for that additional variance relief be added to their application.

Mr. Egarian then provided testimony concerning the impervious coverage including the decking, proposed patio, proposed driveway and in speaking with Mr. White because of slats on the decking and the gravel under the deck provides for pervious and would not be included in the impervious coverage, the water surface of the pool and the 6" of freeboard on the pool. Mr. Egarian continued that the water on the south side of the property sheet flows towards the proposed retaining wall and the Applicant was prepared to make deviations to the plan to push the wall in just a bit to create a swale on the property line which would route any water along the wall and out to the river. On the north side of the property indicated on the plan the spot elevations and how the drainage would flow on that side of the property. Further described were the roof leaders were and where they would be routed, sheet flow off the driveway and its route to discharge into the river. Mr. Egarian stated that there were no negative detriments to the adjacent property owners and that the improvement would greatly outweigh any negative impacts.

Mr. White asked Mr. Egarian to address the drainage pattern on the southern property line as he sees the neighbor draining onto the Applicant's property and if a wall was put up it would block the runoff and it was his recommendation that they pull the wall back and put inlets below the wall so that water would have a way out. Mr. Egarian responded that they have no problem pushing the wall back slightly, creating a swale along the southerly property line to collect and route any water from the adjacent lot out to the river and they would demonstrate that on an amended plan. Mr. White asked if the swale wasn't sufficient would they put in inlets and was told yes.

Mr. White commented on the purpose of the impervious coverage requirement to address open space and then asked for a table of the impervious coverage changes. Mr. Egarian referred to the table shown on the provided plan and indicated the deck area that would be considered pervious. Mayor Mahon asked about the pool. Mr. Egarian responded that he mentioned the pool from a stormwater management aspect as the 6" freeboard between the water surface and the coping could handle a 25 year storm and in fact would handle that amount of stormwater without draining off. Mayor Mahon asked then they were not taking the pool as a deduction and was told no, it was not.

Mr. Ardito pointed out that when the plan was put together with the first engineer he did not take into consideration the pool surface.

Mr. White asked Mr. Egarian to discuss the height of the retaining wall as well as the details of the fence being proposed on top of the wall.

Mr. Egarian presented and described the document depicting the existing survey and proposed site plan which was marked as Exhibit A-1. Mr. Egarian referring to A-1, pointed out the elevations of the retaining wall, top and bottom, grading, and that it was an open aluminum fence and distributed for the Board's viewing the fence detail.

Mr. White returned to the table for calculation of the impervious coverage and asked questions on what items were included in the 43.1% number. Mr. Nissim entered the discussion and presented a colored rendering of the proposed site plan which portrayed the front and backyard, the decking areas, blue stone walkway which was marked as Exhibit A-2.

Mr. Kahle asked about the lot coverage calculation and whether the walkway on the side of the patio was included in the calculation. Mr. Egarian answered yes. Mr. Kahle asked was it included in the map and table and was told yes. Mr. Kahle questioned it because it was stated front walk but not the rear walk which makes him question if it was included. Chairman Widdis asked what number was it included in. Mr. Egarian conferred with Mr. Nissim and then gave the breakout that the blue stone was... Mr. Savarese asked to go through item by item.

A discussion ensued on what items were included in the calculations for each area including the water area of the pool, the coping, the gravel areas, the need to have specific numbers and no vague references.

Afterwards Mr. Egarian stated they would pull the wall back 2' to allow for the creation of a swale to collect and route any water from adjacent properties to be routed out to the river.

Mr. Whitson asked Mr. White if 2' would be enough. Mr. White responded that if not, they would have to put in a small drainage system.

Mr. Whitson asked how tall the wall was on the south side. Mr. Egarian answered at its highest, 7.1' and at lowest 3.7'.

Mayor Mahon commented that they stated 7' at the rear of the property, with the neighbor on Lot 13 the difference was only 3', and the 7' was measured on the back at the beach where the bulkhead could not be brought up and was told it was measured from the adjacent grade.

Mr. DeNoia paused the presentation and asked would they be submitting an amended plan that would show everything that would be put on the site. Mr. White asked as a condition of approval and was told not there yet.

Mr. DeNoia asked about plans being shown on the easel. Mr. Nissim answered it was not previously provided to the Board, the described and presented them for the record including a colored rendering of the site plan which was marked Exhibit A-2 and the 3D rendering was marked as Exhibit A-3. Mr. Nissim referring to the displayed Exhibits A2 and A3, described the retaining wall, its slope to the water and that the rip rap existing had to remain.

Mr. White asked how high would the wall be looking from the neighbor's property. Mr. Nissim answered the wall would be 7.1' tall above their grade. Mayor Mahon expressed concern of what the neighbor would be looking at. Ms. Ardito answered, no that house had been raised. Mayor Mahon questioned then what was just told was inaccurate. Discussion ensued on how the wall would appear to the neighbor, what the elevation was of the neighbor's elevated house. Mr. Whitson questioned if the plans that were provided to the public accurately reflected the conditions. Mr. Nissim answered that the topography of the land was accurate. Chairman Widdis interjected that what they want to know is if the tapering of the lot would still be at 7.1 when the 2 lots meet together. Mr. Nissim testified that the neighbors only elevated the house with block underneath and did not change the grading on the lot.

Mayor Mahon offered observations including their offer to move the retaining wall on the south to be moved in 2', at the north end was the driveway which quite a bit of a wall as concerned with drop off, and suggested that they carry the driveway wall straight to the river and remove the bump out of lawn and then slide the overall plan 2'. Discussion ensued on whether the shifting of the site plan was feasible and how to accomplish it and minimize the deviations and how it would diminish the appearance of the height of the wall, how it resolved the issue with the swale and while a variance was still required it would be less of a negative impact.

Chairman Widdis asked if the height of the south wall could be diminished from 5 to 3. Mr. White answered that was something their engineer would have to answer.

Several Board members expressed concern with the height of the retaining walls.
Chairman Widdis summarized by stating that the design needed to be reconsidered for ways to diminish the negative impacts.

Mr. Nissim commented that they had designed with the intent for shrubbery for privacy and then suggested to Mr. Egarian where the walls could be lowered and still be able to plant shrubs on the outside of the wall for privacy and to diminish the impact of the wall's height.

Mr. Savarese expressed concern with the amount of coverage on the lot and that he didn't feel there was a hardship and that a reason hadn't yet been demonstrated for why other than wanting what they want. Mr. Savarese continued that he felt the driveway was imposing and was too high and asked the elevation of the garage, was told 11.0 because of CAFRA, and then suggested reworking the size of the garage to avoid CAFRA and get the elevation down to 10.

Mr. White asked Mr. Egarian the deck was at 12', the retaining wall was at 12' – what was exposed with regard to the deck – was the deck at grade? Everything is at the same elevation. Mr. Nissim responded that the wall would be lowered to provide 2-3' clearance between the wall and deck. Mr. White questioned where the water was going to get out to the river. Mr. Egarian commented that it was planned to have the drainage aggregate under the wood deck but if Mr. White felt more comfortable with them installing perforated piping and have that discharge to the river they could do that.

Chairman Widdis advised that at this point the Board would like the Applicant to come back with changes to the plans that would address the Board's concerns.

Chairman Widdis further asked the public that was present if they had any comments or concerns on the application.

Joe Coury, 477 Adrian Ave, stated he had no concerns or questions but was there to say that they've seen the plans and were glad that they had knocked down the old house and were really there to support the applicant. Mr. Coury added that for the record if did not have to come back for the next hearing that would be great but also to say that they want the retaining wall built, the bulkhead.

There was discussion on when they could return, how much time needed to prepared amended plans that would be available to the public for the required 10 days prior to the meeting date carried to.
Mr. DeNoia asked for the Board to articulate to the Applicant the concerns that needed to be addressed which Mr. Ardito took note of: Mr. Kleiberg asked for drainage – what was under the deck, how was it draining and where was it draining to, come back with specific plan; Mr. Savarese stated he liked the idea of shifting the house and improvements on the lot, would like to see the plans of the house being built and reevaluate driveway to reduce impacts; Mayor Mahon had concerns with the side yard setbacks and drainage impacts on the adjacent properties, move the walls 2' back and realign the house on the lot; Mr. Kahle requested more drainage information and what fencing would be put on the wall; Mr. Sullivan had no problems with the few inches on the front yard setback or the small increase on impervious coverage but did share concerns on the drainage; Mr. Whitson echoed other members and provide specifics; Councilman Gallo agreed with the concerns of the other members; Mr. White asked them to address as many of the comments in his review letter as possible. Mayor Mahon also asked for the current elevation of the house to the south be provided. Mr. DeNoia asked for a plan that was consistent with what was planned.

Afterwards, Chairman Widdis advised that the matter would be carried to the May 26, 2015 meeting with no additional notice required.

RESOLUTIONS:

6. PB2015-07 Marks, Cynthia (413 Milton Ave). 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. Kleiberg and received the following roll call:

AYES:	Mr. Whitson, Councilman Gallo, Mr. Sullivan, Mr. Kahle, Mr. Kleiberg, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Johnson, Mr. Fichter
INELIGIBLE:	Mayor Mahon, Mr. Savarese

Ms. Smith stated that there was one additional item of business – the resignation of Board Member William Johnson. Chairman Widdis commented that his resignation was accepted with regret as he was a valuable member.

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.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 9:14 p.m. on a motion by Mayor Mahon which was seconded by Mr. Savarese and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary