



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • APRIL 13, 2021

Regular

REMOTE/VIRTUAL

7:00 PM

Clement V. Sommers Municipal Building, 910 Oceanport Way, Oceanport, NJ 07757

- I. **Call to Order:** Chairman Widdis called the meeting to order at 7:01 PM.
- II. **Board Policy:** Chairman Widdis advised the public of the below Board policies:
•It is Board Policy that no application will be opened after 9:30 P.M.
•No new testimony will be taken after 10:00 P.M., except at the discretion of the Board.
- III. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by adequate and electronic notification on January 22, 2021 of this virtual/remote meeting and its location, date and time to the Asbury Park Press, Star Ledger and Two River Times and by the posting of same on the municipal bulletin board and Borough's 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.
- IV. **Flag Salute:** Chairman Widdis led attendees and members of the Board in the flag salute.
- V. **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	
Jeanne Smith	Board Secretary	Present	
Kevin Kennedy	Board Attorney	Remote	
William White	Board Engineer/Planner	Remote	

VI. **Board Business:**

1. Report of Pending Applications

Ms. Smith advised of upcoming applications for the April 27th meetings and additional applications under review.

2. Administrative Request for Interpretation - 390-12 Definition of Accessory & Structure - *Added on Late*

Mr. White advised that when the new ordinance, and several new definitions along with it, caused them to re-examine the old definitions and sometimes remember things differently than you thought you did. He and the Zoning Officer were looking at the definition of accessory structure, read the definition and then the definition of structure, which is where the concern is and read that definition, and their strict interpretation concerning "on, above or below the surface of land" and specifically that of patios and whether that is considered a structure, and more generally, with the separate definition of structure it's pretty clear that anything on, above or below the surface of land or water means pretty much everything. That becomes a problem with accessory structures and the maximum percentage of 5% and while he believes that wasn't the Board's intent, patios, pool surrounds, things of that nature that are on grade, was ever intended to part of the accessory structure. These items haven't changed since the previous ordinance but with new ordinance they have been going back and interpreting differently. He is seeking the Board's determination/interpretation concerning pool surrounds. Chairman Widdis commented that he didn't believe it was a structure. Mr. Davis agreed. Mr. Dailey said he didn't see any of that being a structure. Mr. Kahle said he doesn't see that as a structure. Mr. Whitson agreed that patios should be excluded as long as there no standing walls. Mr. Davis added that it kind of sums it up, gazebos, decks, sheds, cabanas but not patios, copings, pools. Chairman Widdis commented very well put. Mr. Kleiberg commented according to Illustrated Definitions Dictionary, sidewalk or patio and any of that kind of stuff does not fall under structure. He stated that patios, sidewalks, pools, surrounds and so on don't count – anything that goes above finished grade would be considered a structure – except a fence. Chairman Widdis asked about walls for outdoor kitchens and it would depend

on height. Chairman Widdis doesn't want it to be so restrictive that people have to come for variances for a pool. Mr. Davis comments that pools fall under its own section of the ordinance. Mr. White stated a pool would be an accessory structure, and you would have to make structural calculations to show that the walls can hold the water. Chairman Widdis documented that he didn't know where that came from but it didn't make sense to him. Mr. Foster commented that he agreed with everybody about the structure issue when they were standalone but how about when they were attached to the house, is there a difference. Mr. White responded that the patios are on grade in support of the principle structure, it's a deck that would normally get attached to a structure and then it is considered part of the principal structure and considered in the building coverage. It's the accessory building coverage that is triggering the issue. Mr. Foster asked there are setbacks for pools and to the apron. Mr. White answered yes, 10' from lines and house and its included with impervious coverage which are anywhere from 37% to 45% depending on zone. Councilman Tvrdik stated he was in agreement with the rest of the Board and liked Mr. Whitson's suggestion to tighten it up as on grade. Ms. Cooper stated she was in agreement with everyone. Chairman Widdis asked Mr. Kennedy next steps procedurally. Mr. Kennedy advised he didn't believe any action needed to be taken – he and/or Mr. White would communicate with the Zoning Officer and next time ordinance is reviewed take a look.

VII. Old Business:

1. PB2020-01 Sempkowski, Anthony

Ms. Smith advised of correspondence earlier that day received from Walter Toto, Attorney for the Sempkowski application which requested to adjourn the hearing to a date certain depending on agenda availability. The request was sought for additional time to prepare revisions pursuant with the previous hearing and concerns expressed by the Board. Ms. Smith advised that the May 11 meeting date was available but requested that the Board make the motion to carry to May 11, 2021 subject to posting of additional escrow funds within 14 days.

Motion to Carry Application to May 11, 2021 subject to posting of additional escrow funds within 14 days.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joseph Foster, Environmental Committee Liaison
SECONDER:	Michael Dailey, Alternate I
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis, Dailey
ABSENT:	Savarese

2. PR-21-13 Resolution of Approval - Oport Partners - *Added on Late*

Mr. Kennedy summarized the resolution that was provided in advance of the meeting, provided additional technical details submitted subsequently and invited comments from the Board. There was lengthy discussion concerning the conditions and added information including weight limits on roadway, employee parking signage, bonding, developer's agreement, ADA standards, provision of calculations on ADA improvements, updated traffic impact reports, trucks routed away from Main Street via Anson using weight limit signage. Mr. Giunco, Attorney for Applicant was present and argued that the weight restrictions would be subject to governing body and NJDOT and expressed concern about the weight limits. Mr. Kennedy counselled the Board that this should be forwarded to the governing body for discussion as part of the developer's agreement. At the request of some of the Board members, Mr. Kennedy would amend the resolution to include discussed items and bring back to the Board at the next meeting.

VIII. New Business:

1. PB2020-30 Meyer, Brianna

EXHIBITS:

A-1 Land Development Application

A-2 Collier's Engineering Review Letter dated March 22, 2021

A-3 Variance Pan/Building Permit Plot Plan," prepared by East Point Engineering, LLC, dated December 12, 2020

A-4 Zoning Denial Letter

A-5 Location and Topographic Survey," prepared by Land Control Services, LLC, dated August 12, 2020

A-6 Proposed New Two-Story Dwelling for Boles Residence, 2 Sheets, prepared by Anthony M. Condouris Architect, Inc. last revised on January 6, 2021

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. Ms. Smith provided the public with options to participate. While waiting for the public to call in, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4, A-5 and A-6. As there were no objections to the notice Mr. Kennedy advised he and the Secretary had reviewed and found the notice to be in order.

Brianna Meyer, Applicant and Contract Purchaser appeared and was sworn in. Marc Lieber, Applicant's Engineer, appeared, presented his credentials and having appeared before the Board previously was accepted as an expert in engineering.

Mr. Dailey advised for the record that he is currently working on a project with Mr. Lieber and did not believe it a conflict but wanted it known for the record.

Mr. Lieber provided testimony including description of the property, zoning, previously had a single family home but currently vacant, proposed construction of a single family dwelling, summarized the variances being sought – minimum lot area, minimum gross habitable floor area for 2nd floor and minimum habitable floor area for first floor, in order to comply with the minimum requirements, the application would then need a building coverage variance due to the size of the lot, complies with all other bulk requirements, would be constructed in compliance with latest FEMA requirements for flood hazard area, lot was subdivided in 1920 and they are unable to acquire any additional land to make the lot conforming as both lots to either side are undersized. Mr. Lieber testified that when designing the home they adhered to meet the side yard setbacks in order to satisfy criteria for light, air and open space; historical use of property and non-compliant house which is eliminated with the proposed improvement.

Chairman Widdis asked Mr. Lieber to testify to the drainage.

Mr. Lieber referring to Exhibit A-3 provided testimony as to the design – proposing the house further back from the street to create a high point in the back, downspouts to be discharged towards the street and not neighboring properties; the majority of runoff would come from the roof which would be directed towards the street.

Chairman Widdis asked for questions from the Board.

Mr. Foster asked how he would address stormwater runoff. Mr. Lieber responded that the bulk of it would come from the roof which is directed out to the street and away from the neighboring properties. The remainder of runoff comes from grass areas which is very minimal; regional flooding occurs not from the property but outside sources. Mr. Foster requested where the downspouts and there's no recharge, little grass and was a big concern for neighbors. Mr. Lieber responded that they could detail the downspout to Mr. White. Chairman Widdis asked him to describe the drainage and how it would be accomplished. Mr. Lieber responded that the downspouts would go into a pipe that would run towards the front of the property and out into the street. Mr. Lieber stated the plan does not currently detail it but one would be in the front and one in the rear.

Mr. Foster asked for testimony on the elevations and the flow of water. Mr. Lieber described the elevations, slopes and the flow of water. Surrounding lots drain to the back and to the west, they are trying to send bulk of their runoff to the street.

Mr. White commented that the problem is the origination of that section of town – lots were made so that front of house drained to front and rear of house drained to the back; over the years fences installed and fill material blocked the flow patterns. There is not much the Applicant can do other than perhaps larger downspouts to discharge to 2 front corners. The Applicant agreed to do same and provide the detail on the plan.

Mr. Davis stated he liked that they took into consideration the neighbors with the setbacks and agreed with Mr. White's suggestions.

Mr. Whitson commented that he appreciated the Applicant's efforts to reduce the number of variances, however, he too is concerned with drainage.

Mr. Kahle commented that a lot of this size will always have a drainage issue and was satisfied with their agreement to provide larger gutters and leders.

Mr. Dailey commented that he appreciated the elimination of the detached garage and efforts to reduce runoff.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public for this witness. Ms. Smith provided the details for participation.

Marion Lugones, 17 Ticonderoga Ave, thanked everyone for their time and looking forward to the new neighbor, but expressed concern for the drainage coming to the street – only one way to flow towards Port Au Peck; Ticonderoga during a storm there is tremendous flooding at end of her driveway and across the street and road is impassable at those times and is concerned that additional drainage being added to that. She liked the idea of the large drains, however, urged the Board to consider a drain in the back and front to take the water down.

Mr. White commented that he looked at builds for storm system and there are two on Ticonderoga west of the property, goes out to end of Port Au Peck to the river but is driven by high tides and sometimes backs up in system and there's nothing that can be done even if pipe size were increased because its pushing against the tide. There was house previously and impervious then so he doesn't believe its an issue – will be the same as before. There was discussion on the overall problem from the neighborhood development and not just related to this property. Ms. Lugones asked if the basins could be widened. Mr. White reiterated the issue is the tidal flooding and the push back and increasing size of pipes will not help with capacity. The Borough is looking into tidal gates/check valves for the area but is not the responsibility of this applicant.

As there was no one else from the public, Chairman Widdis closed that portion of the meeting.

Chairman Widdis asked Mr. Lieber that he would work with the Borough Engineer to provide a solution to the stormwater runoff.

Lance Golden, Applicant's Builder and Project Manager, was sworn in and provided testimony as to the details of the house to be built, gutters would be installed to push water runoff as discussed, house plan is smaller due to the smaller lot, described the deck off the first

floor, flood vents, floor elevations, base elevations, flood elevation, height of the roof 35' from crown of road. The proposed house location abides with the front setback and not necessarily the averages. There was some discussion about shifting the house forward to eliminate rear yard setback from deck. Issue arises with the requirement for parking to be 20' front to back and not in the right of way. They could shift the house approximately 8.5'-9' which would leave 24.5' from the right of way line for the parking. They did not prepare an averaging plan. Drawing from the setbacks of the house on each side.

Mr. Whitson commented that if the house moves forward it then needs a front setback variance and he believes the plan as proposed is better – further from the road. Mr. White confirmed same.

Mr. Kleiberg exited at 8:45 pm

PUBLIC:

Chairman Widdis opened the meeting to questions from the public for this witness. Ms. Smith provided the details for participation. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

PUBLIC:

Chairman Widdis opened the meeting to comments on the application from the public. Ms. Smith provided the details for participation. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Mr. Davis made the motion to approve the application with conditions, noted that he didn't believe the one house would make a significant impact on the neighbors, ensure that gutters drain to front and that the Applicant has done everything, considering the square footage of the house, that the Board has asked for and have designed the house to provide the minimum setbacks for the side yards which Mr. Foster seconded the motion. Mr. Dailey commented on the motion that they would put in drainage underground and look into alleviate any runoff from the back and move out to the street. Mr. Davis added that he would like to see trees planted in the back yard to screen the deck from the neighbors which the Applicant agreed to. Councilman Tvrdek asked the Applicant if they agreed to the inlet proposed. Ms. Meyer confirmed yes.

Motion to Approve Application with Conditions

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Darren Davis, Class IV
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Tvrdek, Foster, Kahle, Davis, Dailey
ABSENT:	Savarese, Kleiberg

IX. Petitions from the Public: Chairman Widdis opened the meeting to Petitions from the Public. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

X. Adjournment: As there was no further business, the meeting was adjourned at 8:54 pm on a motion by Ms. Cooper which was seconded by Mr. Davis and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary