

**OCEANPORT PLANNING BOARD  
MINUTES  
April 13, 2011**

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. Kahle, Councilman Johnson, Mr. Whitson, Mr. Kleiberg, Mr. Sullivan, Ms. Flor, Mr. Fichter, Mr. Widdis

**MEMBERS ABSENT:** Mr. McCarthy, Mr. Savarese, Mr. Gervolino

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

**BOARD BUSINESS:**

1. Minutes of the meeting of March 9, 2011 were approved as presented on a motion from Mr. Whitson and a second from Mr. Kahle and approved by the eligible Board members.
2. Correspondence – Ms. Smith advised the Board that an NJDEP application had been received for review for the Darren Davis application approved at the last meeting and that it was available in the front office for review.

**OLD BUSINESS:** None

**NEW BUSINESS:**

3. PB File: 2011-03  
Block 40, Lot 8  
213 Comanche Drive  
Request for Bulk Variances

- |      |                                                                                                                                                                |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A-1  | Set of Architectural Plans, Sheets 1-2, prepared by Anthony M. Condouris, AIA, dated February 22, 2011                                                         |
| A-2  | Rendering of the Earlier House on the Property                                                                                                                 |
| A-3  | Front Elevation Rendering of the Proposed Dwelling Profile from Comanche Drive                                                                                 |
| A-4  | Rear Elevation Rendering of the Proposed Dwelling Profile from South Branch of Shrewsbury River                                                                |
| A-5  | Side Elevation Rendering of the Southerly Profile of the Proposed Dwelling                                                                                     |
| A-6  | Site Plan Rendering, prepared by Kennedy Consulting Engineers, LLC, dated April 13, 2011                                                                       |
| A-7  | Plan Detailing a 2008-2009 Aerial Photograph obtained from Monmouth County Planning Board, prepared by Kennedy Consulting Engineers, LLC, dated April 12, 2011 |
| A-8  | Correspondence prepared by Joseph L. Lazock, PLS of Acre Survey Company, Inc., dated March 8, 2011.                                                            |
| A-9  | Residential Development Plan, prepared by James A. Kennedy, P.E., dated February 4, 2011                                                                       |
| A-10 | Photograph of Property taken by Cynthia DeSousa the week of April 3, 2011                                                                                      |
| A-11 | Photograph Looking Across U-Shaped Driveway, taken by Cynthia DeSousa, taken week of April 3, 2011                                                             |

The following persons were sworn in: Brian DeSousa and Cynthia DeSousa, Applicants, James Kennedy, Engineer and Planner for the Applicant and Anthony Condouris, Architect for Applicant. The Board's Professional Engineer and Planner, Mr. White, was also sworn in.

Mrs. DeSousa provided details of their family and the pressing need for a larger home and the reasons for why they had purchased the subject property including their commitment and love for the Borough of Oceanport. Mrs. DeSousa testified as to the history of the property, the ability of the existing house to meet their needs and the limits of expansion by the ordinance that led them to decide to construct new.

Mrs. DeSousa described the proposed construction and what factors were considered in the design of the proposed dwelling including the variance relief being sought.

Mrs. DeSousa provided testimony concerning the attempt to purchase additional property from the neighbor to the south whose property had additional width beyond the requirement of the zone in order to increase the width of the property to eliminate or minimize the relief being sought for the pre-existing non-conforming lot width.

Anthony Coundoris, AIA submitted the following documents that would be referred to during his testimony: Set of Architectural Plans, Sheets 1-2, prepared by Anthony M. Condouris, AIA, dated February 22, 2011 which were marked as Exhibit A-1, Rendering of the Earlier House on the Property which was marked as Exhibit A-2, Front Elevation Rendering of the Proposed Dwelling Profile from Comanche Drive which was marked as Exhibit A-3, Rear Elevation Rendering of the Proposed Dwelling Profile from South Branch of Shrewsbury River which was marked as A-4 and a Side Elevation Rendering of the Southerly Profile of the Proposed Dwelling which was marked as Exhibit A-5.

Mr. Condouris, having been previously before the Board, was accepted as an expert in the field of architecture. Mr. Condouris provided testimony concerning the design of the proposed house and the various issues and features that impacted the design of the house including the footprint of the existing house, the uniqueness of the lot's shape specifically its narrowness, the importance of design elevations for both the front and rear of the proposed dwelling as its location was on the waterfront, the presence of a mature sycamore tree on the northeast side of the property that they wished to maintain and to preserve the water views for the neighbors. Mr. Condouris also testified that they used the concept of the existing house when designing the proposed house and that the design was specifically for that lot due its narrowness and gave examples of how the design would have changed if the lot was larger. Mr. Condouris continued testimony regarding the design elevations referring to Exhibits A-2, A-3, A-4, and A-5. There was also testimony concerning the non-conformity of the existing house for minimum habitable floor area for the zone and that the proposed house eliminates that non-conformity, and the absence of a basement or a walk-up attic. Mr. Condouris also gave a description of the materials that would be used during construction.

Mr. Condouris provided additional testimony concerning the non-conformity of the existing footprint with the zone requirements, the proposed dwelling's footprint that eliminated that non-conformity, and that were the design to comply with the required Yard Exception portion of the ordinance there would not be a functional, suitable area for a house to be constructed due to the narrowness of the lot.

Chairman Widdis asked the Applicant to explain the direction that the testimony was proceeding. Mrs. DeSousa described for the Board the requested variances they were seeking relief - the lot width of 75' where 120' required which was pre-existing non-conformity and the complexity of the Yard Exception requirement for average front and rear setbacks effected by new construction recently approved after the collection of their data which reduced the average front yard setback.

Chairman Widdis asked with the Board's consent if they could hear testimony from Mr. Kennedy at this point to provide perspective and return to Mr. Condouris later in the hearing.

James Kennedy, PE, provided his credentials and having been previously before the Board was accepted by the Board as an expert in the fields of engineering and planning. Mr. Kennedy summarized that his testimony would address the relief being requested for the lot width, the average front and rear setbacks exception, and an accessory structure in the front yard.

Mr. Kennedy submitted for the record a Site Plan Rendering, prepared by Kennedy Consulting Engineers, LLC, dated April 13, 2011 which was marked as Exhibit A-6. Mr. Kennedy referring to Exhibit A-6 provided descriptions and specifics regarding the proposed dwelling in relation to the lot and the existing dwelling.

Mr. Kennedy submitted 2 additional documents entitled Plan Detailing a 2008-2009 Aerial Photograph obtained from Monmouth County Planning Board, prepared by Kennedy Consulting Engineers, LLC, dated April 12, 2011 which was marked as Exhibit A-7 and Correspondence prepared by Joseph L. Lazock, PLS of Acre Survey Company, Inc., dated March 8, 2011 which was marked as Exhibit A-8.

Referring to Exhibits A-7 and A-8, Mr. Kennedy provided additional testimony concerning data obtained from the surveying of the front and rear yard setbacks for properties located 200' north and south of the subject property – an average along the front of 137.3' as of March 8, 2011, where 88' was proposed; and the impact on the average of a new dwelling being constructed on Lot 4 brings the average to 133'; the substantiation for the 88' based on A-7 which shows 2 accessory structures that flank the proposed lot – detached garages with a front yard setback of 125.5' for 209 Comanche and 68.45' for 215 Comanche Drive for an average of 84.5'; the fact that Comanche Drive was relatively narrow and offset within the right of way with an additional 21' from the improved portion of the roadway to the property line and that when judging distances over a distance of 100' one was not judging from the property line but from the travelled roadway and the difference in setback of 10' or 12' was not readily discernible from a distance of about 100'.

Mrs. DeSousa referring to the aerial photograph asked Mr. Kennedy did not the jog inward of the river along the rear property line naturally pushes those properties forward. Mr. Kennedy responded yes and that the more uniform setback was from the river more than to Comanche when moving from south to the north and that the rear yard was fixed due to the uniqueness of the lot.

Chairman Widdis asked Mr. Kennedy to go over the numbers again.

Mr. Kennedy reviewed again the zone requirements, the existing features of the subject lot, the history of the neighborhood and established accessory structures in the front yard in order to not block views of the river basically "switching" the rear yard for the front yard, what features were used in determining the 88' proposed front yard setback to the accessory structure and 119' proposed front yard setback to the dwelling.

Chairman Widdis asked for the existing front yard setback. Mr. Kennedy referred to Exhibit A-6 and answered 99.9' to the garage.

Mr. Kennedy continued with testimony regarding the relief being sought for an accessory structure, an 8' x 14' shed, in the front yard not allowed by the ordinance including the pattern of existing development of accessory structures in the front yard in that neighborhood, that placing a shed in the rear yard to be conforming would be an interruption of the river views by neighbors on both sides and that the placement of the shed in a non-conforming location outweighed the detriments of providing it in the front yard. Mr. Kennedy also pointed out that he had reviewed the Borough's Master Plan in which the 2005 Re-Examination report states that preserving water views was paramount and specifically addresses the development along Comanche Drive that a lot depth of 250' be considered to avoid the potential for flag lots which the subject property would conform with. Mr. Kennedy also pointed out that the property and proposed dwelling complied with the standard bulk requirements of the zone with the exception of the lot width which was pre-existing and the Yard Exception portion of the ordinance.

Mr. Kennedy added that the intent of the accessory structure for the front yard created positive impacts including preservation of the waterfront views to the rear and how the application promoted the intent of the Master Plan by fixing the rear line along the waterfront.

Mr. Kennedy summarized his testimony including the variance relief being sought, how the application was prepared to minimize the detriments of the variances being sought and the positive criteria of the application.

Mr. Kennedy lastly provided comments related to Mr. White's review letter and how the application would comply with each of Mr. White's comments.

Chairman Widdis asked questions related to the proposed elevations including that of the garage, first floor, driveway to which Mr. Kennedy responded with the various data referring to a Residential Development Plan which was marked as Exhibit A-9 and that the proposed dwelling would be at basically the same elevation as the existing dwelling as they did not want to have an elevated grade that would impact the adjacent neighbors and that they had minimized the size of the driveway also to reduce impervious area and minimize storm water runoff in addition to down spouts directed away from the river and the adjacent lots.

Mr. White asked Mr. Kennedy to provide additional testimony concerning 390-14 B, Yard Exceptions for waterfront for the rear yard requirement. Mr. Kennedy responded that they had measured the rear yard setbacks of the properties to the natural waterway to the north and south and that the average rear yard setback was 91' with a proposed rear yard setback of 97' which was in excess of the average.

Mrs. DeSousa added that in addition to the water views the intent was to preserve the mature sycamore tree. Mr. Kennedy also added that the additional rear yard area provided for a functional recreational rear yard.

Mr. Whitson asked questions regarding the location of the driveway 3' from the property line. There was discussion amongst Mr. Whitson, Mr. Kennedy and Mrs. DeSousa regarding the standard in the area of driveways from the side yard and the willingness to move the driveway to 5' from the side yard line.

Mr. Kahle asked where the AC units would be placed and if they would be located within the setbacks. Mr. Kahle expressed concern that if the plans as proposed were approved it should be noted what the storage area over the garage's use would be allowed. Mrs. DeSousa responded that she understood and that it would really depend on what their needs would be as their desire was to have a basement for storage but they were not able to keep the existing basement and that a walk up attic would require additional variance that they desired to eliminate through the area over the garage.

Mr. Kahle also asked if the averages for the front were calculated using the existing accessory structures and garage on the subject property. Mr. Kennedy answered that the strict definition of the ordinance was for the properties to the north and south and that inclusion of the subject lot would have reduced the average.

Mr. Kleiberg asked about the proposed finished grade and potential runoff to the property on the north.

Mr. Kennedy responded that they had created a swale there that would re-direct the water to the east and west.

Councilman Johnson expressed the same concern as Mr. Whitson about the proposed driveway proposed at 3' off the property line and asked if the Applicant would be willing to set the driveway 5' off the property line.

Chairman Widds also expressed concern about how they would be exiting the property – backing out onto Comanche Drive.

Mr. Kahle commented that a solution would be to make the driveway wider.

There was lengthy discussion regarding the ability of vehicles to turn around in the driveway, the impacts of moving the garage 5' off the property line and that moving it over still provided 37' feet to perform a "K" turn.

Mrs. DeSousa introduced photographs which were described by Mr. Kennedy - Photograph of Property taken by Cynthia DeSousa the week of April 3, 2011 which was marked as Exhibit A-10 and a Photograph Looking Across U-Shaped Driveway, taken by Cynthia DeSousa week of April 3, 2011 which was marked as Exhibit A-11, that were used to show the Board the distances of the adjacent properties structures from the property lines.

Mr. Kahle asked about the water table and if the front leaders for stormwater runoff could be directed into a concrete drywell. Mr. White responded that they would not consider that in that area as it was attempted in the past unsuccessfully.

Chairman Widdis asked what would be stored in the proposed accessory structure. Mrs. DeSousa answered boating and fishing supplies, the children's bicycles, a snow blower and other equipment and that they selected the location in the front yard and not the rear yard in order to better respect the neighbors.

Chairman Widdis stated that the Board had concerns with moving the driveway...

Mr. Sullivan interjected that not all of the Board – that he did not have a concern with the driveway or the shed.

As there were no additional questions for Mr. Kennedy, Mr. Condouris resumed testimony.

Mrs. DeSousa asked Mr. Condouris to testify concerning the limited building envelope due to holding the required setbacks and what design would function and that it was not feasible to design a home and garage that would function within the limited building envelope due to the narrowness of the lot.

Mr. Condouris completed testimony by providing additional details regarding the design and the materials to be used and that because of the limited size of the home there was more available to focus on the details of the construction.

Councilman Johnson asked if the unfinished storage over the garage would be sheet rocked, heated, etc. Mrs. DeSousa answered that their intent in the immediate future was not to finish or heat but possibly use as for wine storage and that it would be upfront an unfinished storage area.

Mr. Kleiberg asked if the attic would be habitable and was told no, it would not be habitable.

Mr. Kahle asked if there would be utilities within the accessory structure. Mrs. DeSousa answered no.

Mr. Whitson asked the height of the accessory structure. Mrs. DeSousa answered under 15'.

Chairman Widdis commented that it would be more practical to have electricity in the shed to which the Applicant conceded.

Chairman Widdis also stated that he would like to see the shed landscaped heavily to minimize intrusiveness and stressed that any lighting that may be installed would be directed downward to which the Applicant also conceded.

Mr. White commented that he would like to see landscaping that was not uniform in height. In conclusion, Brian DeSousa, Co-Applicant offered his comments on the application including his conversations with next door neighbors with regards to purchasing land as well as their input on what they would like to see.

Mr. Whitson asked if there had been a decision regarding the request to move the driveway to 5' off the property line.

Mrs. DeSousa stated that their neighbor only expressed a desire to see the driveway be a couple feet off the property line as presently it meandered on the line and at some points over the property line and that they were proposing the new one to be 3' off the property line.

As there were no additional questions from the Board, Chairman Widdis opened the meeting to questions from the public.

**PUBLIC:**

As no one else from the public wished to be heard Chairman Widdis closed the public portion of the hearing.

Ms. Flor made a motion to approve the application subject to the conditions discussed which was seconded by Mr. Sullivan and received the following roll call:

|             |                                                                                                           |
|-------------|-----------------------------------------------------------------------------------------------------------|
| AYES:       | Mr. Whitson, Mr. Kahle, Councilman Johnson, Mr. Kleiberg, Mr. Sullivan, Ms. Flor, Mr. Fichter, Mr. Widdis |
| NAYES:      | None                                                                                                      |
| ABSTAIN:    | None                                                                                                      |
| ABSENT:     | Mr. McCarthy, Mr. Savarese, Mr. Gervolino                                                                 |
| INELIGIBLE: | None                                                                                                      |

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

**RESOLUTIONS:**

1. PB2011-02 (Davis) - 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. Sullivan and received the following roll call:

|             |                                                                           |
|-------------|---------------------------------------------------------------------------|
| AYES:       | Mr. Whitson, Mr. Kahle, Mr. Kleiberg, Mr. Sullivan, Ms. Flor, Mr. Fichter |
| NAYES:      | None                                                                      |
| ABSTAIN:    | None                                                                      |
| ABSENT:     | Mr. McCarthy, Mr. Savarese, Mr. Gervolino                                 |
| INELIGIBLE: | Councilman Johnson, Mr. Widdis                                            |

Ms. Smith stated the motion carried.

**PETITIONS FROM THE PUBLIC:** Chairman Widdis opened the meeting to Petitions from the Public and 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 9:05 p.m. on a motion by Mr. Whitson which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH  
Secretary