

**OCEANPORT PLANNING BOARD
MINUTES
April 12, 2016**

Chairman Widdis led the flag salute.

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 15, 2016, publication on January 26, 2016 and by the posting of same on the municipal bulletin board and Borough Web Site."

MEMBERS PRESENT: Mr. Widdis, Mr. Foster, Councilwoman Cooper , Mr. Kleiberg, Mr. Kahle, Mr. Sullivan, Mr. Whitson, Mr. Proto

MEMBERS ABSENT: Mr. Wible, Mr.Savarese, 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 January 26, 2016 were approved on motion from Mr. Whitson and a second from Mr. Kahle and approved by the eligible Board members.
2. Minutes of the meeting February 9, 20116 were approved on motion from Mr. Whitson and a second from Mr. Kleiberg and approved by the eligible Board members.
3. Addition to the Agenda. Owners of Hill Court properties received variances in the past based on certain plans. They are selling the property and wish to maintain the envelope of the building but redesign the house. After discussion, the Board agreed that if the architectural plans were modified they would need to reappear before the Board and notice would have to be given.

OLD BUSINESS:

CARRIED from March 22, 2016

4. PB2016-03 Pisane, Neil and Dana
117 Smith Street
Block 50, Lot 1
Request for Bulk Variances

A-1 through A-3 – Revised architectural plans Revised - 03/31/16

Councilwoman Cooper recused herself at 7:38 PM.

Mr. DeNoia stated for the record that service had been reviewed, was in order and jurisdiction had been accepted for this application. The following persons were sworn in: William White, Board Engineer/Planner, Neil Pisane, Applicant, Donald J. Passman, Architect for the Applicant. Mr. Passman gave a brief background of the property and damage incurred by Superstorm Sandy. He explained the reasons the variances are needed. He gave further explanation of the differences between the previous application and the current application. The current application removes the deck, thereby minimizing rear setback impact and eliminating CAFRA issues. The new plans also propose an additional 141 square feet of paving. Discussion followed regarding impervious coverage. Mr. White provided clarification on the variances needed. He stated the Applicant is requesting a D-6 height variance because it exceeds 10 percent of the maximum height of 35 feet. The Applicant is proposing 40 feet. A bulk variance for impervious coverage, 37 percent is the maximum permitted in the zone. The Applicant is proposing 49.31 percent.

Chairman Widdis asked if members of the Board had questions. Mr. Kleiberg had a question regarding the elevation of the crawl space and flood vents. Mr. Passman responded the flood vents will be in compliance. There was discussion regarding the pitch of the new roof and use of the attic. The Applicant will not use the attic as habitable space and agreed to a deed restriction stating that.

Chairman Widdis invited questions from the public. No questions were presented, and that portion of the meeting was closed. Chairman Widdis invited comments from the public. No comments were presented, and that portion of the meeting was closed.

Mr. DeNoia itemized the variances for height of 40' where 35 allowed, impervious coverage of 49.31 where 37 allowed and condition of deed restriction that attic only for storage and not for habitable space. A motion for approval was made by Mr. Foster for said variances and condition which was seconded by Mr. Kahle.

The Clerk called roll:

AYES: Mr. Whitson, Mr. Foster, Mr. Kleiberg, Mr. Kahle, Chairman Widdis.

NAYS: None

ABSTAIN: None

ABSENT: Mr. Wible, Mr. Savarese, Mr. Fichter

INELIGIBLE: Mr. Sullivan, Councilwoman Cooper

NEW BUSINESS:

- 5. PB2016-01Mazza, James
275 Port Au Peck Ave.
Block 65, Lot 4
Request for Use Variance

- A-1 Affidavit of Certified Mailing**
- A-2 Copy of Affidavit of Publication dated April 1, 2016**
- A-3 Copy of Application Package**
- A-4 Copy of Corrected Application**
- A-5 Abbreviated Environmental Impact Statement prepared by DW Smith Associates, dated February 17, 2016**
- A-6 Letter and Description of Operations from DW Smith Associates, dated March 9, 2016**
- A-7 Use Variance Plan prepared by DW Smith Associates, dated January 4, 2016.**
- A-8 Subdivision Exhibit – “275 Port Au Peck Associates”, 3 Sheets, prepared by DW Smith Associates**
- A-9 Colored Rendering of Use Variance Plan (A-7)**
- A-10 Curriculum Vitae of Laura A. Brinkerhoff, LSRP, CPG**
- A-11 Preliminary Assessment Report prepared by Brinkerhoff Environmental Services, dated May 22, 2012**
- A-12 Curriculum Vitae of Mr. Lurie**
- A-13 Plans for Concept B prepared by DW Smith Associates**
- A-14 Reduced Version of Subdivision Exhibit (A-8)**
- O-1 Correspondence and Violations Notice from previous activity**

Chairman Widdis recused himself due to familial ties. Mr. Sullivan also recused himself. Vice Chairman Whitson will preside over the hearing. Mr. DeNoia spoke about Mr. Foster's relationship with the Applicant and his family approximately nine years ago. Mr. DeNoia has questioned Mr. Foster regarding his objectivity under the Municipal Land Use Law. Mr. Foster explained that he was involved in a quasi-brokerage capacity by using the Mazza yard and also performed sales and marketing for Mazza & Sons. Mr. DeNoia stated that Mr. Foster has had no personal benefit or continued

relationship. Mr. DeNoia asked if there were any questions from the Board from which there were none.

Mr. Robert Inglima, Jr., Esq., representative of the Applicant, stated he agreed that it was a very remote relationship and is satisfied with Mr. Foster's ability to remain objective in hearing the application. He has no objection to his participation in the application process. Mr. DeNoia asked the public if there were any questions. There were no questions or concerns raised by the public. Mr. DeNoia explained that the Applicant has elected to bifurcate the application. The first variance to be heard at this meeting will be the use component. If the use variance is approved, then the bulk and other requirements will be heard.

Mr. DeNoia stated that notice and publication were proper, so the Board has jurisdiction. Mr. Inglima marked the affidavit of mailing by certified mail to individuals within 200 feet of the site. All of the regulatory utilities were also notified. Those items were marked as **Exhibit A-1**. He marked as **Exhibit A-2**, which was a copy of the Affidavit of Publication in the Asbury Park Press on April 1, 2016. He also marked **Exhibit A-3**, which was a copy of the original application package by Anthony Tumminia of DW Smith Associates. An error was discovered regarding Mr. Inglima's address. He submitted **Exhibit A-4**, which was a copy of the corrected application. An abbreviated Environmental Impact Statement dated February 17, 2016. Letter of March 9, 2016 provided supplemental information requested by Mr. White, was marked as **Exhibit A-6**. **Exhibit A-7**, a copy of the use variance plan submitted to the Board with the application, was submitted. **Exhibit A-8** Subdivision Exhibit "275 Port Au Peck Associates and **Exhibit A-9** Colored Rendering of the use variance plan were marked for identification.

Mr. Inglima gave a brief history of the site. Many years ago, it was a landfill. Later, it was the subject of a 12 lot subdivision, which was approved. The applicants at that time were unaware of materials that needed remediation. The site has been the subject of license remediation program with the DEP, who has overseen the cleanup, including placing a three foot cap of certified clean soil above the existing landfill materials. Laura Brinkerhoff, a licensed site remediation professional, has been authorized by the State to act on behalf of the Applicant with respect to remediation, will testify regarding the attempts by the Applicant to identify a development to be constructed on the site. The development proposes the creation of two residential lots (Exhibit A-9) and a lot on the northern portion of the property with a proposed equestrian center. Tim Lurie, design engineer, will testify on the residential lots and horse barn, that the proposed plan would conform to the Borough's bulk standards and the DEP standards for the cleanup and remediation. Julie Mazza-Sofczek will testify regarding the activities of the equestrian center and that the applicants will manage the center and live in the homes shown in the plans.

Laura Brinkerhoff was sworn and questioned by Mr. Inglima regarding her qualifications and submitted as **Exhibit A-10** her qualifications. The Board recognized her as an expert in environmental engineering and the licensed site remediation professional (LSRP). She prepared a Preliminary Assessment Report, which reviewed all of the available historical background information which is submitted to the DEP. It is the baseline document of any remedial action done at a site. The report was marked as **Exhibit A-11** (sic). The report identified the type and location of regulated materials. She described where fill material (construction debris mixed with soil) approximately three feet below grade to nine feet below grade in the center of the property. The fill material is primarily toward the rear of the property. After the limit of the fill are delineated, the remediation plan will move the construction debris from the location of the proposed homes and consolidate them with other waste material on the rear of the property. Additional investigation is required to determine what material is buried there and how deep the debris is. The material will be tested, evaluated and redistributed as necessary and approved so that an engineered cap can be placed on top to enable construction. She stated the debris found was a limited amount of non-friable asbestos shingles. Certain areas already have two feet of clean fill, which the DEP required the Applicant to install. The DEP has visited the site numerous times.

Ms. Brinkerhoff stated that if the front two properties are cleaned to residential standards, the property would not have any restrictions or be subject to monitoring. She also testified that the area of the horse barn area could be cleaned to the satisfaction of the DEP. She stated that area will have a soil remediation action permit and a deed notice. Once those are in place, a response action outcome will be issued. That portion of the site will be subject to a biennial permit and reporting obligation. Discussion followed regarding drainage and runoff. There should be no runoff impact to adjoining properties. Safeguards will be in place to contain materials from going airborne or drifting onto adjoining properties. She expects the project can be developed with the approval under the LSRP program and DEP oversight.

Mr. Kleiberg, Mr. Foster and Mr. Kahle asked questions regarding the remediation, capping and movement of the contaminated soil. Ms. Brinkerhoff responded that the process has been approved by the DEP. There was further discussion regarding elevation, capping and test pits. Mr. Proto asked for more detail about the DEP's monitoring process during the construction. Ms. Brinkerhoff responded that the Dept. of Solid Waste required air monitoring during the construction activities. There were air monitors measuring upwind and downwind. If the level of the airborne dust reached an elevated level, it would shut down the project. Preventive measures such as water trucks on site ensure that dust was not spread. Vice Chairman Whitson asked if DEP will be present. Ms. Brinkerhoff responded that there were no scheduled appointments for the DEP, but they show up periodically. There was further discussion regarding moving the contaminated soil from the proposed residences to the rear of the property and the proposed barn. Mr. White asked if there had been any groundwater testing. Ms. Brinkerhoff replied there was not. There was discussion regarding methane testing.

Vice Chairman Whitson asked if members of the public had any questions.

Karen Long, 32 Revere Drive, was sworn and asked who was overseeing this project. She discussed an administrative order from 2011 regarding the original cleanup. The original cleanup resulted in the adjacent homes being swept for the presence of asbestos dust. Ms. Brinkerhoff advised that the NJDEP has the ultimate authority, her firm is licensed by the State and she is personally licensed as an LSRP to monitor the remediation. Mrs. Long provided a copy of correspondence and violation notices from the original mediation, which was marked **Exhibit O-1**.

Roseann Letson, 37 Morris Place, was sworn. She asked when Ms. Brinkerhoff's firm became involved with the project. Ms. Brinkerhoff replied that her firm was hired after the administrative order was issued and there have been no violations since.

Christopher Grohman, 480 Branchport Ave., was sworn. He asked what the deed restrictions were. Mr. Inglima explained that a deed restriction is notice to future buyers or leasers of the property know exactly what restraints are on the property. He also asked about the DEP monitors and how quickly the response would be if the asbestos level rose. Ms. Brinkerhoff replied that the air monitors are running 100 percent of the time and that they are manned by environmental technician and explained that daily reports are made to the DEP. He asked if residents would be notified and how. Ms. Brinkerhoff explained the precautions that would be taken such as not performing remediation on windy days.

Lawrence Drabeck, 30 Revere Drive, was sworn. There were questions regarding groundwater testing. Mr. Inglima replied that would be better addressed within the construction application. The current presentation is regarding the use variance. Ms. Brinkerhoff advised that groundwater testing and analysis will be done within the next 90 days. There was discussion regarding the depth and duration of the 50 test pits. There was additional discussion regarding the design and durability of the cap near the horse barn.

As there were no more questions for this witness from the public that portion of the meeting was closed.

Mr. Inglima moved A-1 through A-9 and A-11 into evidence. He asked Ms. Brinkerhoff questions about the possibility of the normal movement of horses on the site would intrude into a contaminated site.

She replied that the cap will be designed according to the requirements of the horse farm. Horses pose no greater risk of intrusion of the contaminated material than any other vehicle.

Applicant's witness, Tim Lurie was sworn. Mr. Inglima questioned Mr. Lurie on his qualifications and introduced **Exhibit A-12**, Mr. Lurie's curriculum vitae. The Board recognized him as an expert in professional engineering and civil engineering. Mr. Lurie described the coloring modifications to A-9. He explained the proposals for a three lot subdivision, the size of the residential lots and a shared access driveway, which would not provide access off Colonial Drive. Sewer, water and gas exist on Port Au Peck. Fences are indicated on the plans with an orange line. On the eastern side of the property line, the Applicant is proposing a row of landscaping approximately 8 to 10 feet from the property line. Mr. Lurie discussed the location of wetlands and the letter of interpretation from the NJDEP. The limit of the landfill area is shown as the dark dashed line on the plans. The previous attempt at subdividing the property into 12 lots was when the landfill materials were discovered, which stopped that project. Other ideas were discussed, but this plan is the least intense. Mr. Lurie testified that although there will not be public access on Colonial Drive, there will be access and turn around for fire department. The main driveway on Port Au Peck will provide a gated entry for the public to the equestrian center and two residential buildings. Discussion followed regarding fill and leveling the property. Further discussion followed regarding utility connections, retention basin and storm water management. Plans for Concept B were introduced and marked as **Exhibit A-13**. Board members requested color copies of the plans for the next meeting. Sets of the plans were marked for identification as **Exhibit A-14**. Mr. Lurie discussed the differences between A-14 and A-9, which were modifications to the parking area, adding a walkway to the stall and increasing the buffer area near Revere Drive. As the Applicant had additional testimony and due to the lateness of the hour, there was discussion after which the Applicant requested to be carried to May 10, 2016 with no additional notice required.

PETITIONS FROM THE PUBLIC: Vice Chairman Whitson opened the meeting to Petitions from the Public. As no one from the public wished to be heard, Vice Chairman Whitson closed that portion of the meeting.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 10:17 p.m. on a motion by Mr. Foster which was seconded by Mr. Kahle and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary