BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● APRIL 10, 2018

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 PM

II. **Flag Salute:** Chairman Widdis led the audience and members of the Board in the flag salute.

III. **Open Public Meetings Statement:** Chairman Widdis 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 16, 2018 and by the posting of same on the municipal bulletin board and Borough Web Site."

IV. **Roll Call:**

Attendee Name	Title	Status	Arrived
Christopher Widdis	Chairman	Present	
James Whitson	Vice Chairman	Present	
William Sullivan	Mayor's Designee	Present	
Robert Proto	Council Liaison	Present	
Joseph Foster	Environmental Commission Liaison	Present	
John (Jack) Kahle	Class IV	Present	
MIchael Savarese	Class IV	Absent	
Robert Kleiberg	Class IV	Present	
Daphne Halpern	Class IV	Present	
Thomas Tvrdik	Alternate I	Present	
Michael O'Brien	Alternate II	Absent	
Jeanne Smith	Board Secretary	Present	
William White	Board Engineer/Planner	Present	
Kevin Kennedy	Board Attorney	Present	

V. **Appointment of Interim Board Attorney:**

PR-18-08 Resolution Appointing an Interim Board Attorney

Ms. Smith announced that Kevin Kennedy, Esq. was selected to act as interim Planning Board Attorney, due to the sudden passing of Rick DeNoia, Esq., former Board Attorney. Chairman Widdis called for a motion to appoint Mr. Kennedy as interim Board Attorney, which was made by Mr. Whitson and seconded by Mr. Kahle. Mr. Kennedy thanked the Board for their support and explained the exception to the law regarding appointments for professional service contracts.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECOND:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Sullivan, Proto, Foster, Kahle, Kleiberg, Halpern, Tvrdik
ABSENT:	Savarese, O'Brien

VI. Board Business:

1. Approval of Minutes of February 27, 2018

Chairman Widdis called for a motion to approve the Minutes of February 27, 2018, which was made by Mr. Whitson, seconded by Mr. Kleiberg and approved by the Board.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Sullivan, Proto, Foster, Kahle, Kleiberg, Halpern, Tvrdik
ABSENT:	Savarese, O'Brien

2. Referral from Governing Body - Fort Monmouth Plan Amendment #10

Chairman Widdis led discussion on Amendment #10 to the Fort Monmouth Reuse Plan, described the proposed amendments including residential housing and keeping the golf course in Eatontown, Gibbs Hall will be renovated and made into a conference/hotel facility. Chairman Widdis advised the Board supported the Amendment.

3. Referral from Governing Body - Proposed Amendment to Zoning Ordinance - Marijuana Business Use

Chairman Widdis asked Mr. White to review with the Board his memo dated April 6, 2018. Mr. White reminded the Board of the goals of the Master Plan and the policy that if the ordinance does not specifically address than it is expressly prohibited. He found no mention of such type of use in any of the Borough's districts and it was his recommendation to the Board that the proposed ordinance was consistent with the Master Plan.

There was brief discussion amongst the Board after which Ms. Halpern made a motion to find the proposed ordinance consistent with the Master Plan and to include the prohibition of paraphernalia, which was seconded by Councilman Proto and unanimously approved by the Board.

4. Resolution Determining Proposed Ordinance #986 Consistent with Master Plan

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Daphne Halpern, Class IV
SECONDER:	Robert Proto, Council Liaison
AYES:	Widdis, Whitson, Sullivan, Proto, Foster, Kahle, Kleiberg, Halpern, Tvrdik
ABSENT:	Savarese, O'Brien

VII. Old Business:

1. PB2017-15 Family Promise of Monmouth County - CARRIED from March 27, 2018

Block 110, Portion of Lot 1; Preliminary and Final Site Plan

A-1 Boundary Survey, prepared by Langan, dated October 3, 2017 (1 sheet)

A-2 Preliminary and Final Site Plans, prepared by Bowman Consulting Group, Ltd., last revised March 16, 2018 (4 sheets)

A-3 First Floor Plan (1 Sheet), prepared by Aztec Architects, LLC, last revised October 3, 2017.
A-4 Mandatory Conceptual Review Letter, prepared by FMERA, dated February 8, 2018
A-5 Maser Consulting Engineering Review Letter, dated April 5, 2018
A-6 Standard Development Application
A-7 Sheet 2 of the Preliminary and Final Site Plan, prepared by the Bowman Consulting Group, last revised March 16, 2018

Sean Byrnes, Esq. appeared on behalf of Family Promise of Monmouth County. He expressed his condolences for the loss of Mr. DeNoia. Chairman Widdis advised that he and Ms. Halpern listened to the recording of the last meeting and are eligible to vote on the Application. He reviewed the history of the Application and introduced Paul Winters, Engineer for the Applicant. Mr. Byrnes then introduced and described several exhibits which were marked Exhibits **A-1, A-2, A-3**, **A-4, A-5**, and **A-6.**

Mr. White, Board Engineer/Planner and Mr. Winters were sworn. Mr. Winters provided his qualifications and experience appearing before other Boards and was accepted as an expert in engineering. Mr. Byrnes elicited testimony from Mr. Winters regarding the amended plans, Exhibit **A-7**, revised March 16, 2018, which revised the parking plan in front of the building to address the Board's concerns. Mr. Winters described the location, utilities, topography, hours of operation, client occupancy, staff levels, proposed changes to ensure ADA compliance, adding a new playground area and signage.

Mr. Winters advised that a review of the Borough Ordinance, the Applicant would apply the office parking standard, requiring 12 spaces including one designated ADA space. Mr. Winters stated the plans have been revised to eliminate the need for a variance, by providing 8 spaces with one designated ADA and banking 4. Trash and recycling will be removed by a private hauler. He described current landscaping and street tree installation and lighting.

Tom Esposito, Project Coordinator, appeared and remained under oath from the previous meeting. Based on questioning from Ms. Halpern, he answered questions regarding handicap parking and accessibility. Mr. White asked if the organization's board would meet on location and expressed concerns regarding lighting. Mr. Esposito agreed the Applicant would add lighting to eliminate the need for a variance.

There was additional discussion regarding adequate parking. Mr. Winters explained the rationale for the number of spaces. There was discussion regarding sidewalks, a ramp and curbing near the parking area, recycling and trash. Mr. Byrnes requested a recess to confer with his client.

At 8:30 the Board adjourned for a five-minute recess. At 8:35, the Board returned to regular session.

After conferring with his client, Mr. Byrnes advised that the Applicant will provide 12 parking spaces, move the handicap area to ensure ADA compliance and address the trash and recycling issues with an outside contractor.

Mr. Winters explained the dimensions, design, location of the requested sign and fence. Mr. White stated that the fence variance is based on FMERA's ordinance, not Oceanport's. Mr. Winters described the surface of the parking lot. Regarding landscaping, the Applicant is requesting relief from providing street trees. Due to the substantial number of existing on the site, there is no benefit to adding trees. Regarding lighting, Mr. Byrnes stated the Applicant will provide lighting based on Borough requirements.

After discussion, the Applicant will work with Mr. White to address outdoor garbage storage. The Applicant agreed to remove the sign from the application. After discussion, the Applicant will plant 2 trees. Councilman Proto expressed concern regarding a stone parking lot instead of blacktop. Mr. Byrnes requested a recess to discuss paving the parking lot with his client.

At 9:00 pm, the Board adjourned for a five-minute recess. At 9:10 pm, the Board resumed regular session.

Mr. Byrnes explained the financial reasons for the Applicant's hesitation to pave the parking lot and requested that the Board reconsider the requirement to pave the entire lot. There was discussion regarding the cost of paving and alternatives.

Chairman Widdis opened the meeting to the public for questions of this witness. As there was no one from the public who wished to be heard, Chairman Widdis closed that portion of the hearing. Chairman Widdis opened the meeting to the public for comments on the application. As there was no one from the public who wished to be heard, Chairman Widdis closed that portion of the hearing.

Mr. Whitson made a motion to approve the Application with 12 paved parking spaces, black fencing in the front, addition of 2 trees, additional lighting and a designated area for recycling and garbage, which was seconded by Mr. Foster. Mr. Kennedy added a condition that the Applicant will comply with all the promises and commitments and representations made at the hearing, and if any of the situations materially change as a result of any required outside approvals, the Applicant would have to re-appear before the Board. He reiterated the requirements for ADA, trees, garbage and recycling, lighting and asphalt paving for 12 parking spaces.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Commission Liaison
AYES:	Widdis, Whitson, Sullivan, Proto, Foster, Kahle, Kleiberg, Halpern, Tvrdik
ABSENT:	Savarese, O'Brien

VIII. New Business:

None

IX. Resolutions:

1. PR-18-09 Memorialization of Approval - 523 Port Au Peck Avenue

As the resolution had been previously provided to the Board, Mr. Kennedy summarized the Resolution after which Mr. Kahle made a motion to approve the resolution which was seconded by Mr. Foster and received the above roll call.

RESULT:	**ADOPTED [6 TO 0]**
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Joseph Foster, Envir. Commission Liaison
AYES:	Whitson, Sullivan, Proto, Foster, Kahle, Tvrdik
ABSENT:	Savarese, O'Brien
INELIGIBLE:	Widdis, Kleiberg, Halpern

X. 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.

XI. Executive Session:

1. Litigation, Negotiations and Attorney Client Privilege N.J.S.A. 10:4-12(b)(7)
    - Board Attorney Vacancy
    - Noel Kelly vs. Oceanport Planning Board

Mr. Kennedy stated for the record that the Board would be entering Executive Session for the purpose of discussing personnel and litigation matters and/or anticipated litigation matters including Kelly v. Oceanport Planning Board and in accordance with NJ law, minutes of the meeting will be kept and made available to the public when the need for confidentiality is no longer exists.

Whereas**,** the Open Public Meetings Act provides that the Planning Board may go into executive session to discuss matters that may be confidential or listed pursuant to N.J.S.A. 10:4-12(b)(7) and the Board Attorney has recommended that the Planning Board go into executive session to discuss pending litigation which matter is permissible for discussion in executive session, therefore,

At 9:30 pm, the Board entered executive session on a motion by Mr. Whitson, seconded by Councilman Proto and unanimously approved by the Board.

At 9:34 p.m., the Board returned from Executive Session and the regular meeting was reopened on a motion by Mr. Whitson and seconded by Mr. Kleiberg and approved by the Board

Mr. Whitson made a motion to appoint Kevin Kennedy, Esq. as Planning Board Attorney for the balance of the 2018 year, pursuant to the same financial arrangements with the former Board Attorney, which was seconded by Mr. Kleiberg which received the following roll call:

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RESULT:	**ADOPTED [9 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Proto, Council Liaison
AYES:	Widdis, Whitson, Sullivan, Proto, Foster, Kahle, Halpern, Tvrdik Kleiberg
ABSENT:	Savarese, O'Brien

Ms. Smith was directed to prepare a resolution memorializing same for the next meeting.

XII. Adjournment: As there was no further business, the meeting was adjourned at 9:37 p.m. on a motion by Mr. Whitson which was seconded by Mr. Kleiberg and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary