BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● MARCH 10, 2020

Regular | **Maple Place School** | **7:30 PM**

2 Maple Place, Oceanport, NJ 07757

I. Call to Order: Vice Chairman Whitson called the meeting to order at 7:30 p.m.

II. Open Public Meetings Statement: Vice Chairman Whitson stated this meeting complies with the Open Public Meetings Act by notification on January 15, 2020 of this location, date and time to the Asbury Park Press and the LINK News and by the posting of same on the municipal bulletin board and Borough Web Site.

III. Flag Salute: Vice Chairman Whitson led the audience and members of the Board in the flag salute.

IV. Roll Call:

Attendee Name	Title	Status	Arrived
Christopher Widdis	Chairman	Absent	
James Whitson	Vice Chairman	Present	
Patty Cooper	Mayor's Designee	Present	
Thomas Tvrdik	Class III	Absent	
Joseph Foster	Environmental Committee Liaison	Present	
John (Jack) Kahle	Class IV	Present	
Michael Savarese	Class IV	Present	
Robert Kleiberg	Class IV	Present	
Darren Davis	Class IV	Present	
Michael Dailey	Alternate I	Present	
Jacob Rue	Alternate II	Absent	
Jeanne Smith	Board Secretary	Present	
William White	Board Engineer/Planner	Present	
Kevin Kennedy	Board Attorney	Present	

V. Board Business:

1. Approval of February 25, 2020 Minutes

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Michael Savarese, Class IV
AYES:	Whitson, Cooper, Foster, Kahle, Savarese, Kleiberg, Davis, Dailey
ABSENT:	Widdis, Tvrdik, Rue

VI. Old Business: None

VII. New Business: Vice Chairman Whitson stated the agenda order was being changed to hear the Kelly application first to which there were no objections.

1. PB2020-05 Kelly, Linda
   76 Gooseneck Point Rd
   Block 74, Lot 10
   Bulk variances for side yard setbacks and impervious coverage for the legalization of existing shed and generator

EXHIBITS:

A-1 Land Use Development Application of Linda Kelly
A-2 Maser Consulting Review Letter dated February 20, 2020
A-3 Plan prepared by C.C. Widdis Surveying LLC, dated January 16, 2020, last revised January 24, 2020
A-4 Survey of Property prepared by C.C. Widdis Surveying LLC, dated December 17, 2019

Mr. Kennedy asked if there was anyone present who had an objection to the notice provided for this application. Hearing none, advised that he and the Board Secretary had reviewed the notice, found service in order and the Board had jurisdiction.

The following persons were sworn: William White, Board Engineer/Planner, and Linda Kelly, Applicant and Robert Kelly, Applicant's spouse.

Mr. Kennedy questioned the Applicant for basic information including approximate date of purchase of the property. He asked the Applicants to describe the location of the shed and generator and how long each have been there. Mr. Kelly advised the shed was installed approximately 2013, and it sits on the property line to the right of the survey, approximate size 8' x 12'. The generator is inside the shed and was also installed in approximately 2013. Mr. Kelly testified the Applicants were making improvements to the property which will reduce impervious coverage by approximately 1500 sq. ft. He described the condition of the home when they purchased it and explained a previously approved Planning Board application from 2003 for a new home.

Mrs. Kelly testified that she had spoken with neighbors who had no objection to the generator.

Mr. White asked about the driveway layout, any modifications to the garage. Mrs. Kelly stated that was what was originally approved by the Planning Board and the macadam in front of the garage will be removed and replaced in the same location. Landscaping will replace macadam in the front of the house. Vice Chairman Whitson asked if the conversation with neighbors was in writing or just verbal. The Applicants replied verbal. A building permit was issued for the generator installation.

PUBLIC:
Vice Chairman Whitson opened the meeting to the public for questions. As no one wished to be heard, Vice Chairman Whitson closed that portion of the meeting. Vice Chairman Whitson opened the meeting to the public for statements. As no one wished to be heard, Vice Chairman Whitson closed that portion of the meeting.

Motion to Approve Application

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Darren Davis, Class IV
AYES:	Whitson, Cooper, Foster, Kahle, Savarese, Kleiberg, Davis, Dailey
ABSENT:	Widdis, Tvrdik, Rue

2. PB2019-14 Hager, Gary

   262 Arnold Ave

   Block 76, Lot 27

   Bulk variances for construction of detached garage

   EXHIBITS:

A-1 Land Use Development Application of Gary Hager
A-2 Maser Consulting Review Letter dated January 27, 2020
A-3 Plans entitled "Proposed New Garage for Hager Residence", prepared by Anthony Condouris Architect Inc., dated July 24, 2019 and consisting of two (2) sheets;
A-4 Plans entitled "Riparian Grant & Waterfront Development Plan", prepared by Midstate

Engineering, Inc., dated November 5, 2010 and consisting of one (1) sheet;

A-5 "Plot Plan", prepared by InSite Engineering, LLC, dated January 14, 2020 and consisting of two (2) sheets;

A-6 "Boundary and Topographic Survey" prepared by InSite Surveying, LLC dated December 11, 2019 and consisting of one (1) sheet.

Mr. Kennedy asked if there was anyone present who had an objection to the notice provided for this application. Hearing none, advised that he and the Board Secretary had reviewed the notice, found service in order and the Board had jurisdiction.

The following persons were sworn: William White, Board Engineer/Planner, and Gary Hager, Applicant/Owner, Applicant Architect Anthony Condouris and Applicant Engineer Doug Clelland. Mr. Condouris having appeared before the Board in the past provided a brief summary of his qualifications as an architect and was accepted by the Board as an expert in architecture. Mr. Clelland also provided his qualifications as an engineer and was accepted by the Board as an expert in engineering.

Mr. Hager explained his background and how he came to love Oceanport. When he purchased the home, he noted that there was a large driveway but no garage, which was something he desired. He described the processes he followed for various permits, including CAFRA. Mr. Clelland appeared and described the property location and details regarding removal of a portion of the driveway and the proposed garage. He addressed grading and runoff issues. The Applicant is seeking approval to construct a one and a half story garage and to remove the existing shed. The principal dwelling has existing, non-conforming front and side setbacks. The shed also has an existing, non-conforming side setback. Mr. Clelland explained the variances requested for the proposed garage, including side setback, building height, accessory building coverage, and impervious coverage. He addressed items in Mr. White's review letter regarding variances and design waivers. Mr. Clelland explained areas that currently flood on the property, and the reason for the location of the garage. But added that the garage could be shifted so it wouldn't encroach any further. Mr. Clelland testified this will not be habitable space, but will have electric and gas. Mr. Clelland advised that revised plans will be submitted, in addition to the approved CAFRA permit.

Mr. White asked about the purpose of installing gas in the proposed garage. Mr. Hager replied that in his previous garage, he had a ceiling heater. Mr. White confirmed that it will be gas fired infrared. Mr. Dailey asked why Mr. Hager needed water inside the garage. Mr. Hager explained that he may need a bubbler system installed to prevent ice and the dock floating away. It would be nice to have the ability to wash winter residue from his car and have a drain to take away the water. Mr. Kleiberg asked where the drain would wash out to with the salt and sand from car washing. Mr. Hager wasn't sure. Mr. Kleiberg stated that the attic was a habitable attic shown on the second store based on the height of the room. Mr. Condouris and Mr. Kleiberg had additional discussion regarding height. Vice Chairman Whitson stated the plans are basically to build an apartment. Mr. Hager, Mr. Kennedy and Vice Chairman Whitson had further discussion regarding the utilities. Mr. Kleiberg emphasized that if the garage is approved, the Applicant does not have the right to put in gas, water, or sewer.

Mr. Kahle asked if there was any reason why the garage couldn't be moved in order to avoid the variance or was it because of a turning radius issue. The turning radius issue was confirmed. Mr. Foster asked questions about the ceiling height, plumbing/drainage. Ms. Cooper requested clarification on ingress/egress. Mr. Foster also asked about the main floor plan for the garage, which showed a large box. Mr. Hager replied it was for a large golf simulator. Mr. Savarese had questions about shifting the house back, reduce the footprint of the garage to 750 sq. ft. and the building height in order to eliminate those variances. The real hardship is the need for a 5 ft. setback for the garage. Mr. Savarese also suggested making the garage slab slope out to eliminate the need to deal with DEP installation regulations.

Vice Chairman Whitson reiterated his concern for the request for all those utilities in a garage.

PUBLIC:
Vice Chairman Whitson opened the hearing to the public for questions of the witness. As no one else wished to be heard, Vice Chairman Whitson closed that portion of the meeting.

Anthony Condouris reappeared and explained why the garage was designed, the attic was presented unfinished and under the 7' which he believes differentiates from habitable; appreciates the Board's comments and took a few minutes to discuss with his client.

The Board took a 5-minute recess on a motion by Mr. Foster, seconded by Mr. Davis with all in favor.

At 8:32 p.m. the Board re-adjourned.

Mr. Condouris advised that the Applicant agrees to limit utilities to electric, reduce the accessory building height to 19' which matches it to the existing dwelling, the height of the ridge inside.

Vice Chairman Whitson asked Mr. White if a new set of plans should be submitted who deferred to the Board. As the some of the Board wanted to see revised plans, there was discussion on whether the applicant wanted to carry the application or request a vote from the Board. The Applicant requested that the application be carried in order to prepare revised plans to address the Board's concerns and comments.

Mr. Kahle requested that it be specifically identified what the Board was seeking from the Applicant which Mr. White outlined: reduce overall height of structure and height of ceiling; utilities; and possible reduction of the footprint to eliminate a variance; provide where all roof drains; bring front setback to comply. Mr. Kleiberg added that if can put electric out there but it was not shown on the plan as well as the other utilities.

As there was no objection from the Board, Vice Chairman Whitson stated the application would be carried to the April 7, 2020 meeting with no additional notice required.

VIII. 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.

IX. Informal:

1. PB2020-07 Fort Monmouth Business Center LLC

Steve Gouin, Attorney appeared and presented potential plans for the parcel known as "Allison Hall" that runs along Oceanport Avenue on the Fort. Topics of discussion included ingress, egress, parking, lighting, riverwalk promenade, permitted uses by FMERA for the site, Monmouth County review due to county road and environmental matters. The Applicant will be filing a full application in the near future.

X. Executive Session: Board Attorney Kevin Kennedy requested that the Board authorize an executive session so that he may provide an update to the Board on the Noel Kelly litigation.

At 9:07 pm the following resolution was adopted on a motion by Mr. Kleiberg, second by Mr. Foster and approved unanimously by the Board.

WHEREAS, the Open Public Meetings Act provides that the Oceanport 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; and

WHEREAS, it is recommended by the Board Attorney that the Oceanport Planning Board go into executive session to discuss matters set forth hereinafter which are permissible for discussion in executive session.

NOW, THEREFORE, BE IT RESOLVED by the Oceanport Planning Board that the Board shall go into executive session to discuss the following items:

<u>Litigation, Negotiations and the Attorney Client Privilege N.J.S.A. 10:4-12(b)(7) and</u>
Kelly, Noel vs . Oceanport Planning Board; Borough of Oceanport

BE IT FURTHER RESOLVED that no formal action will be taken after the Executive Session.

At 9:15 pm the regular meeting of the Planning Board was reopened on a motion by Mr. Davis, second by Mr. Kahle and unanimous approval by the Board.

XI. Adjournment: As there was no further business, the meeting was adjourned at 9:16 pm on a motion by Mr. Kleiberg which was seconded by Mr. Davis and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary