BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● FEBRUARY 27, 2024

Regular | **Clement V. Sommers Municipal Building** | **7:00 PM**

910 Oceanport Way, Oceanport, NJ 07757

I. **Call to Order:** Chairman Whitson called the meeting to order at 7:00 PM.

II. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by adequate and electronic notification on January 10, 2024 of this meeting and its location, date and time to the Asbury Park Press and Two River Times and by the posting of same on the municipal bulletin board and Borough's Web Site.

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

IV. **Board Policy:** Chairman Whitson advised of the following 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.

V. **Oaths of Office:** Mr. Kennedy administered the Oath of Office to the following members:

1. Patricia Cooper, Class III, Council Liaison, Term Expiring 12/31/2024
2. Kevin Calver, Jr., Class IV Regular, Unexpired term ending 12/31/2027
3. David Gruskos, Alternate #1, Unexpired term ending 12/31/2024
4. Robert Kleiberg, Alternate #2, Term Expiring 12/31/2025

VI. **Roll Call:**

Attendee Name	Title	Status	Departed
James Whitson	Chairman	Present	
John (Jack) Kahle	Vice Chairman	Present	
Christopher Widdis C	Mayor's Designee	Absent	
Patty Cooper	Class III Council Liaison	Present	
Joseph Foster	Environmental Commission Liaison	Present	
Leslie B Widdis L	Class IV	Present	
Darren Davis	Class IV	Present	
Michael Dailey	Class IV	Absent	
Kevin Calver	Class IV	Present	
David Gruskos	Alternate I	Present	
Robert Kleiberg	Alternate II	Present	7:08 PM
Jeanne Smith	Board Secretary	Present	
Kevin Kennedy	Board Attorney	Present	
William White	Board Engineer/Planner	Present	

VII. **Board Business:**

1. **PR-24-08** RESOLUTION Adopting Amended Rules & Regulations of the Board dated February 27, 2024

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: John (Jack) Kahle, Vice Chairman
SECONDER: Darren Davis, Class IV
AYES: Whitson, Kahle, Cooper, Foster, Widdis L, Davis, Calver, Gruskos, Kleiberg
ABSENT: Widdis C, Dailey

2. Report of Pending Applications: Ms. Smith advised there is one application pending for 27 Werah Place for construction of a new home that would be scheduled for a March meeting.

VIII. **Approval of Minutes:**

1. Planning/Zoning Board - Regular - Nov 28, 2023 7:00 PM

RESULT: **ACCEPTED [8 TO 0]**
MOVER: Patty Cooper, Class III Council Liaison **SECONDER:** Joseph Foster, Environmental Commission Liaison
AYES: Whitson, Kahle, Cooper, Foster, Widdis L, Davis, Calver, Kleiberg
ABSTAIN: Gruskos, Kleiberg **ABSENT:** Widdis C, Dailey

3. Planning/Zoning Board - Regular - Jan 23, 2024 7:00 PM

RESULT:	**ACCEPTED [7 TO 0]**
MOVER:	John (Jack) Kahle, Vice Chairman
SECONDER:	Darren Davis, Class IV
AYES:	Whitson, Kahle, Cooper, Foster, Widdis L, Davis, Calver
ABSTAIN:	Gruskos, Kleiberg
ABSENT:	Widdis C, Dailey

Mr. Kleiberg exited the meeting at 7:08 PM

IX. New Business:

1. PB2023-16 Kiernan, Paul
   30 Pocahontas Ave
   Block 19, Lot 14.02
   Proposed rear wooden deck attached to rear of residence seeking variance relief for:
   - Rear Yard Setback, 25' required, 27.9' existing, 10.9' proposed

EXHIBITS:
A-1 Land Development Application
A-2 Zoning Denial Letter 10/11/2023
A-3 "Plot Plan," prepared by William E. Fitzgerald, last revised October 3, 2023
A-4 "Proposed New Residence for PJ & Rebecca Kiernan," 4 Sheets, prepared by Brian. Fitzgerald, last revised Sept.19, 2023
A-5 "Foundation Location Survey" prepared by Insite Surveying, last revised September 12, 2023
A-6 Colliers Engineering Review Letter, dated January 24, 2024

The following person(s) were sworn in: William White, Board Engineer/Planner; Brian Fitzgerald, Applicant's Architect, Paul Kiernan, Applicant/

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked **Exhibits A-1, A-2, A-3, A-4, A-5, A-6**.

Mr. Kiernan testified that he was the owner of the property, there is an existing single family dwelling on the property under construction which once completed will become his residence.

Brian Fitzgerald, was accepted as an expert in architecture having previously been before the Board.

Mr. Fitzgerald described the application to construct a deck at the rear of the property that requires variance relief for rear yard setback, water ponding issue in the backyard, the deck will allow for better use of the rear yard, described the 26.5'x17' deck to be constructed approximately 30" above grade.

Chairman Whitson invited questions from Mr. White and Board members.

Board members asked questions related to the proposed deck will have hand railings, steps, landscape buffer along rear property line, installation of a 6' fence, drainage impact to neighbors, outdoor lighting to be directed down and away from property lines, dark-sky compliant, visibility from roadway, impacts to neighbor to the rear who is also planning a fence, how does deck impact the drainage, drainage currently directed to the street.

PUBLIC: Chairman Whitson opened the meeting to the public for questions and then comments. As no one from the public appeared that portion of the meeting was closed.

Mr. White asked for clarification on the planting of the buffer, heights, spacing. Applicant will plant as appropriate to the tree selected, likely green giants.

Mr. Davis made a motion to approve the application with conditions including installation of 6' fence and planting of green giants as a landscape buffer which was seconded by Mr. Kahle.

Motion to Approve with Conditions

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Vice Chairman
AYES:	Whitson, Kahle, Cooper, Foster, Widdis L, Davis, Calver, Gruskos
ABSENT:	Widdis C, Dailey, Kleiberg

At 7:25 PM, Ms. Barham Widdis recused herself from the next matter due to a conflict and exited the meeting.

2. Polonsky, Vadim & Concetta
   502 Branchport Ave
   Block 65, Lot 32
   Proposed construction of 2nd floor addition seeking variance relief for:
   - Expansion of existing non-conforming structure prohibited by 390-10B(2)(b) due to principle structure side yard setback of 5.64' where 10' required
   - Accessory structure Side yard setback of 8.53' where 10' required.
   - Maximum Impervious Coverage, 37% permitted, 39.6% existing
   - Minimum Habitable Floor Areas - 2-story requires 2,000 total s.f. with 1st floor being 1,150 s.f. and 2nd floor being 850s.f.

EXHIBITS:
A-1 Land Development Application
A-2 Zoning Denial Letter
A-3 "Plot Plan," prepared by Land Control Services, LLC, last dated December 19, 2023
A-4 "Proposed Addition and Renovation for the Polonsky Residence," prepared by Dario Architecture Design, last revised December 20, 2023, consisting of six (6) sheets.
A-5 "Location & Topographic Survey" prepared by Land Control Services, LLC , last revised December 7, 2023
A-6 Colliers Engineering Review Letter, dated January 24, 2024

The following person(s) were sworn in: William White, Board Engineer/Planner.
Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked **Exhibits A-1, A-2, A-3, A-4, A-5 and A-6**.
Vadim Polonsky and Concetta Polonsky, Applicants and Owners, were both sworn in.
Ms. Polonsky testified that they were the owner of the property for about 7 months, there is an existing single family dwelling, and described the application to construct a 2nd floor addition to add 2 bedrooms and bathrooms, a loft for space, recommended by architect to construct on that side of the house due to the chimney and stairs on the other side of the house.
Chairman Whitson invited questions from Mr. White and Board members.
Mr. White summarized for the Board the variances being sought: non-conforming structure due to side yard setback which received a variance by a previous owner back in 2018; accessory structure side yard setback 10' required, shed is 8.5'; and there is a paved half court on the property put in after the last application so there appears to be no new impervious coverage.
Board members asked questions related to the adjacent neighbor which is a 2-story, any consideration to step back the addition – difficult because of the location of the chimney, high vaulted ceilings and stairs, downspouts which are directed to the street except one which directs to the side yard, ridge height, rear yard pump which receives the gutters runoff and directs to the front, elevations and grading, drainage concerns, existing non-conformities, plan revisions eliminated the minimum habitable floor area variance, legalize existing shed with condition that when removed/replaced it is relocated to a conforming location.

PUBLIC: Chairman Whitson opened the meeting to the public for questions and then comments. As no one from the public appeared that portion of the meeting was closed.

Mr. Davis made a motion to approve the application with condition of shed being relocated at end of life which was seconded by Mr. Kahle.

Motion to Approve with Conditions

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Vice Chairman
AYES:	Whitson, Kahle, Cooper, Foster, Widdis L, Davis, Calver, Gruskos
ABSENT:	Widdis C, Dailey, Kleiberg

At 7:47 PM, Mr. Davis recused herself from the next matter due to a conflict and exited the meeting.
At 7:47 PM, Ms. Barham Widdis re-entered the meeting.

3. PB2023-15 Pierce, Ana
   Block 10, Lot 20.03
   79 Iroquois Avenue
   Proposed construction of a 4' walkway, paver patio, landing and wood burning fireplace in rear seeking variance relief for:
   - Maximum impervious coverage of 45.99% where 44.28% exists and 37% is permitted

EXHIBITS:
A-1 Land Development Application
A-2 Boundary & Topographic Survey" prepared by Insite Surveying, last revised August 7, 2023
A-3 "Plot Plan," prepared by Insite Engineering, last revised December 1, 2023
A-4 Colliers Engineering Review Letter dated January 24, 2024
A-5 Deed dated August 16, 2016
A-6 Fireplace Specifications
A-7 Zoning Denial Letter 10/25/2023
A-8 Illustrated Site Layout Plan prepared by InSite Surveying, dated February 20, 2024.

The following person(s) were sworn in: William White, Board Engineer/Planner, Stephen Musto Applicant's Engineer and David Hudak, Applicant's Professional Planner.

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked **Exhibits A-1, A-2, A-3, A-4, A-5, A-6 and A-7**.

Mr. Musto described the existing property characteristics, dimensions and proposed improvements, referring to **Exhibit A-8,** to reconstruct patio and walkway slightly wider as the existing patio is too small for their needs, install a pre-fabricated fireplace for wood burning, rear yard is sufficiently screened by existing evergreen trees, the existence of an existing 20' wide drainage easement however the existing wall and patio are within the easement but are not constructed over the 15" concrete pipe in the rear yard. The new patio will extend over the pipe but there is sufficient cover to install the patio on top of it. He further testified that stormwater at the rear of the property drains east and west towards the inlets on each side of the property, the front yard and driveway drain to the street. All drainage will be directed to the inlets and away from adjacent neighbors. They considered alternatives to minimize the impervious coverage however the majority of the coverage comes from the house and driveway which are in character with the neighborhood.

Chairman Whitson invited questions from Mr. White about the easement., and then Board members.

Mr. White advised that he had consulted with the Applicant's engineer and found that there is no recorded restrictions to the easement. There was discussion concerning granting permission within the Borough' easement, the need for Borough approval as well the Applicant's acknowledgement that should the Borough need to access the pipe the Applicant is responsible for any damages to the pipe resulting from any improvements which the Applicant acknowledged and would be made a condition of any approval.

Board members asked questions related to removal of the existing wall and patio to be removed, size of the pipe, ownership of the pipe, applicant's responsibility to pay for any damage or removals should the Borough need access to the easement and drainage pipe, chimney appearance, playground area, lighting, existing swale that follows edge line of trees to the inlet, grading, drainage to remain same, drainage inlets, landscaping buffers, type of pavers, additional step down from patio to flatten out grade, require as a condition a video inspection of pipe from inlet to inlet upon completion to confirm pipe has not been damaged

PUBLIC: Chairman Whitson opened the meeting to the public for questions and then comments. As no one from the public appeared that portion of the meeting was closed.

Mr. Hudak provided planning testimony related to the C-1 and C-2 criteria and how the application meets those criteria and it was his opinion that there was no substantial detriment to the public good and provided improved use of open space and recreation by the owners.

Mr. Kahle made a motion to approve the application with conditions which was seconded by Ms. Barham-Widdis.

Motion to Approve Application

RESULT:	**ADOPTED [7 TO 0]**
MOVER:	John (Jack) Kahle, Vice Chairman
SECONDER:	Leslie B Widdis L, Class IV
AYES:	Whitson, Kahle, Cooper, Foster, Widdis L, Calver, Gruskos
ABSENT:	Widdis C, Dailey, Kleiberg
RECUSED:	Davis

X. **Recess:** At 8:16 PM, the Board took a 5-minute recess and re-opened the meeting at 8:19 PM with all previous members present.

At 8:19 PM, Mr. Davis re-entered the meeting.

XI. Old Business:

1. PB2020-21.1 Somerset/Parkers Creek
   Block 110.15, Lot 1
   Proposed changes to approved roof-top terrace floor plan on the 22-waterfront town homes

EXHIBITS
A-1 Amended Site Plan Application
A-2 Proposed Elevations, 2 Sheets, dated 3-30-2023, prepared by Pulte Group
A-3 Elevation Comparison, 14 Sheets, dated 10-21-2021, prepared by Pulte Group
A-4 Architectural Plans prepared by Pulte Group dated September 9, 2022
A-5 Correspondence from James Mullen, Esq. dated January 18, 2024
A-6 Copy of 4 Cover Sheets of Architectural Plans Plans approved by Building Department
    6A NEC - Parkers Creek - Frankton Construction Plans Signed by Boro Const Dept 6.20.22
    6B NEC - Parkers Creek - Jetwood Construction Plans Signed by Boro Const Dept 7.17.22
    6C NEC - Parkers Creek - Fairwood Construction Plans Signed by Boro Const Dept 6.17.22
    6D NEC - Parkers Creek - Jayton Construction Plans Signed by Boro Const Dept 6.20.22
A-7 Copy of 4 Certificates of Occupancy for Each Model
    7A CO 29 Signal Ave - Fairwood, issued 10.24.2023
    7B CO 27 Signal Ave - Jayton, issued 10.24.2023
    7C CO 7 Sunset Road - Jetwood, issued 10.24.2023
    7D CO 29 Signal Ave - Fairwood, issued 10.24.2023
A-8 Parkers Creek Jayton Waterfront Plans and Elevations, 22 Sheets, prepared by PulteGroup, dated 11-11-2021
A-9 Pergola Plan prepared by Meyer Hill Consulting, dated July 31, 2023
A-10 Parkers Creek Waterfront Elevations-color scheme-manufacturer-material
A-11 Overall Site Plan, prepared by Dewberry Engineers, last revised Aug. 25, 2022
A-12 Comparison of Original Roof Design with New Split Roof Design prepared by PulteGroup dated 02.12.2024

The following person(s) were sworn in: William White, Board Engineer/Planner.

Mr. Kennedy provided a brief review of the history of the development, requests to amend plans administratively, plans that were revised and approved by a previous Zoning Officer that had not come to the Board, the latest proposed revision to the waterfront units and the Board's review that led to a full application for amended site plan with a public hearing and advised that all Board members present, whether they heard original application or not, were eligible to participate.

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. As there were no objections to the notice, stated that he and Ms. Smith had reviewed the notice and found it to be in order. Mr. Kennedy then described and marked **Exhibits A-1, A-2, A-3, A-4, A-5**.

James Mullen, Applicant's Attorney, appearing provided brief introductions of the application and two witnesses that would be testifying. He commented on Mr. Kennedy's statements of the history by adding that they did not go directly fro resolution of approval to building permit – there was long process for resolution compliance that ended with letter from the Board Engineer on Dec. 20, 2021 which is what Plan "B" was developed from and building permits were issued based on that. He described the application to revise the 22 waterfront units, introduced the Overall Site Plan which was described and marked as **Exhibit A-11,** and referring to same identified the proposed changes to the roof.

The following persons were also sworn in: Jacqueline Schaeffler, Applicant's Architect and Robby Walsh, Vice President of Construction. Both parties were employees of the Applicant, Ms. Schaeffler presented her qualifications and was accepted as an expert in architecture.

Ms. Schaeffler described and submitted a plan which was marked as **Exhibit A-12** which depicts a comparison of the original approved roof and the proposed new split roof design, testified as to the decision to change from a flat roof to a split roof to shed water better and less likely to leak.

Chairman Whitson invited questions from Mr. White and Board members.

Board members asked questions on topics including the pergola option which none have been selected, the Applicant's agreement to remove the pergola completely as an option, compliance with EV rules and marked locations on the plan (approved before that law was adopted), function of the roof drainage, roof drains, concern that the pergola removal and roof changes the aesthetics of the site in a negative way, knee wall no longer an open railing would be a solid wall (parapet) approved during "Plan B", changes will be on all units.

PUBLIC: Chairman Whitson opened the meeting to the public for questions and then comments. As there was no one from the public, Chairman Whitson closed that portion of the meeting.

Motion to Approve with Conditions

RESULT:	**ADOPTED [7 TO 1]**
MOVER:	Darren Davis, Class IV
SECONDER:	John (Jack) Kahle, Vice Chairman
AYES:	Whitson, Kahle, Cooper, Widdis L, Davis, Calver, Gruskos
NAYS:	Foster
ABSENT:	Widdis C, Dailey, Kleiberg

XII. **Petitions from the Public:** Chairman Whitson opened the meeting to Petitions from the Public. As no one from the public wished to be heard, Chairman Whitson closed that portion of the meeting.

XIII. **Adjournment:** As there was no further business, the meeting was adjourned at 8:50 pm on a motion by Mr. Kahle, seconded by Mr. Whitson and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary