

**OCEANPORT PLANNING BOARD
MINUTES
February 26, 2013**

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, Mr. McCarthy, Councilman Johnson, Mr. Kleiberg, Mr. Sullivan, Mr. Fichter, Mr. Whitson, Mr. Gruskos, Mr. Widdis

MEMBERS ABSENT: Mr. Savarese, Mr. Fichter, Ms. DeSousa

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

BOARD BUSINESS:

1. Minutes of the meeting of November 28, 2012 were approved as presented on a motion from Mr. Whitson and a second by Mr. Sullivan and approved by the eligible Board members.
2. Minutes of the meeting of February 12, 2013 were approved as presented on a motion from Mr. Whitson and a second from Mr. Kleiberg and approved by the eligible Board members.

OLD BUSINESS: None

NEW BUSINESS:

1. PB File: 2012-11 – Leo, Gerald & Lauren
21 Gooseneck Point Road
Block 74, Lots 26 & 28.01
Request for Bulk Variance for Height

A-1 Photograph of Breakaway Panel used for V Zone Developments

A-2 Architectural Plans, 2 Sheets prepared by Unger & Mahns Architects, dated August 1, 2012, last revised October 5, 2012

A-3 Architectural Plans, 2 Sheets prepared by Unger & Mahns Architects, dated August 1, 2012, last revised January 25, 2013

Mr. DeNoia explained for the Board that the Applicant was before them to amend the previously approved application because of changes in flood zones related to Storm Sandy that would place the entire structure in a "V" Zone and therefore were present to request the garage be detached thereby requiring a variance for accessory structure in the front yard but all the other variances were already approved.

Steve Gouin, Attorney for the Applicant, made introduction, stated that what Mr. DeNoia had stated was true except that although they noticed for detachment of the garage they no longer wanted to detach the garage as the Leo's and Mr. Mahns had found a way to construct the garage that would work and that Mr. Mahns would explain during his testimony and therefore the only variance they were seeking was the one for height.

Councilman Johnson asked how much higher than the other application and was told 1'.

Chairman Widdis stated then the plans before the Board were not the correct plans.

Mr. Gouin answered correct, as the plans presently before them show a detached garage, they would submit plans that would show the increase of 1' in the height and the attached garage – a sort of hybrid between the 2 plans.

Mr. Whitson questioned whether the plans had to be on file for 10 days.

Mr. White answered the plan on file reflected the height being requested and then by reattaching the garage it would move back toward the property.

Mr. Mahns stated back to the previous application.

There was a lengthy discussion on whether the plan on file for the public accurately reflected what was being requested and whether or not the Board could consider the newest proposal without a plan having been on file for the public's review.

Mr. Gouin and Mr. Mahns argued that the plan on file reflected the additional height variance being sought and that they were withdrawing the proposal for a detached garage thereby eliminating the associated variances.

Mr. Sullivan pointed out that the Board could still review the application with the plans submitted as they were and the Board could deny the detached garage and approve the height as that plan was available for the public to view.

There was additional discussion on what variances were needed, what was noticed to the public and whether the Board could continue the hearing. It was determined only a height variance was needed as the other noticed variances were no longer necessary if the garage was to stay attached, that no changes to the original plan were being proposed with the exception of the additional height of 1' being sought as the other bulk variances were approved at the last application. Mr. DeNoia counseled the Board that based on those facts the application could be heard and why and that it was the Board's discretion whether or not to continue and should the Board choose to continue the Board could condition any decision to an updated plan that would reflect what was decided.

Chairman Widdis asked for Board member comments.

Board members Whitson and Gruskos expressed that they thought the plan should be accurate for the presentation and not changed plans promised in the future.

Councilman Johnson stated the plans were already approved and they were only looking to add another foot to the height and couldn't see making them come back for that.

Chairman Widdis stated it wasn't a question of what they were doing but procedure.

Councilman Johnson stated that the Board had been given a legal interpretation and he believed the Board should follow it.

Mr. Gouin respectfully asked for the Board decision on whether to move forward.

Mr. DeNoia commented that the application had become smaller and eliminated 2 variances and that the drawings presented the proposed height of the principle structure and it was his opinion that the Board could choose to proceed and that he did not see a legal impediment for proceeding.

Chairman Widdis asked the Board members for comments. The decision of the Board was to move forward.

Michael Mahns, Architect, was sworn in. Mr. Mahns testified concerning the technical aspects of the application, explained recent developments with FEMA, flood elevations, flood zone standards and such in response to Storm Sandy that had impacted the Applicant's application and why they had considered detaching the garage.

Mr. Mahns submitted and explained a photograph of a breakaway panel that would be used in the development which was marked as **Exhibits A-1**. Mr. Mahns testified concerning the issues being debated at the State and local levels concerning height and flood zone requirements, why the property

owners had considered detaching the garage but based on newest developments had decided to keep with the attached garage, the previous variance application approved for a height of 36.32' and the request before the Board presently for an additional 1' in height to 37.32'. Mr. Mahns also explained the term "free board" and its relation to the base flood elevation and its impact on the design.

Mr. Gruskos asked what was the garage floor elevation. Mr. Mahns answered 8'. Mr. Gruskos questioned the garage floor elevation thinking it was 9'. Mr. White gave an explanation for garage requirements and what could be stored in that area.

Mr. White questioned Mr. Mahns on the front setback shown on the most current plan at 61'. Mr. Mahns answered that it was to stay at what was previously approved 64.95'.

Chairman Widdis requested that the original plans be part of the record for this application.

Mr. Gruskos asked additional questions about the garage floor elevation and there was discussion on the rules for garage floors, materials required for garage construction and what was permitted to be stored in that area. Mr. Mahns added that were the garage floor made higher the driveway becomes un-negotiable and was not safe.

Mr. Mahns responded by introducing and describing architectural plans revised Oct. 5, 2012 which were marked as **Exhibit A-2** and the current architectural plans revised January 28, 2013 which were marked as **Exhibit A-3**.

Mr. Gruskos asked weren't the prior approvals a wash and was advised by Mr. DeNoia no and explained why. Mr. Gruskos commented that he thought in the future the plans should be submitted prior to any hearing and depict what was being requested.

Chairman Widdis opened the meeting to questions from the public on that witness only.

PUBLIC:

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

Councilman Johnson made a motion to approve the application subject to submittal of revised plans which was seconded by Mr. Kahle and received the following roll call:

AYES:	Mr. Whitson, Mr. Kahle, Mr. McCarthy, Councilman Johnson, Mr. Kleiberg, Mr. Sullivan, Mr. Gruskos, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Savarese, Mr. Fichter, Ms. DeSousa
INELIGIBLE:	None

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 8:13 p.m. on a motion by Councilman Johnson which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary