



BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES • FEBRUARY 22, 2022

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 20, 2022 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 10:00 P.M.; no new testimony will be taken after 10:30 P.M., except at the discretion of the Board.

V. **Roll Call:**

Attendee Name	Title	Status	Arrived
James Whitson	Chairman	Present	
John (Jack) Kahle	Vice Chairman	Present	
Patty Cooper	Mayor's Designee	Late	7:02 PM
Thomas Tvrdek	Class III	Late	7:47 PM
Joseph Foster	Environmental Commission Liaison	Present	
Christopher Widdis	Class IV	Absent	
Robert Kleiberg	Class IV	Absent	
Darren Davis	Class IV	Present	
Michael Dailey	Class IV	Present	
Leslie B. Widdis	Alternate I	Present	
Jeanne Smith	Board Secretary	Present	
Kevin Kennedy	Board Attorney	Present	
William White	Board Engineer/Planner	Present	

VI. **Board Business:**

1. Report of Pending Applications - Ms. Smith advised of upcoming applications for the March 8th and 22nd meetings.

VII. **Approval of Minutes:**

1. Planning/Zoning Board - Regular - Nov 16, 2021 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	John (Jack) Kahle, Vice Chairman
SECONDER:	Joseph Foster, Environmental Commission Liaison
AYES:	Whitson, Kahle, Cooper, Foster, Davis, Dailey, Widdis
ABSENT:	Tvrdek, Widdis, Kleiberg

VIII. **Old Business:**

1. Resolution of Approval - 45 Main St/DeGiglio. As the Resolution was provided previously to the Board, Mr. Kennedy summarized the resolution which was moved by Mr. Dailey, seconded by Ms. Widdis and received the following roll call:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael Dailey, Class IV
SECONDER:	Leslie B. Widdis, Alternate I
AYES:	Whitson, Kahle, Cooper, Foster, Davis, Dailey, Widdis
ABSENT:	Tvrdek, Widdis, Kleiberg

2. PB2021-11 Richard Veltri

9/9-A Pocano Ave
Block 39, Lots 6 & 7
Minor Subdivision - Lot Line Adjustment with Variances
CARRIED from December 14, 2021
DFD 03/31/22

Ms. Smith advised that the Applicant is seeking to adjourn hearing to March 22, 2022 as additional time is needed to submit revised plans and comply with requirement for public inspection 10-days prior to the hearing. As there were no objections, Mr. Kahle made a motion to carry the application which seconded by Ms. Cooper and unanimously approved by the Board members present.

Mr. Dailey recused himself from the next matter due to a conflict and exited at 7:07 PM

IX. New Business:

1. PB2021-25 Datre, Andrew

16 Balmer Court
Block 65, Lot 1.03

Variances for proposed swimming pool:

- Front yard setback: 30' required, 27' feet proposed
- Impervious Coverage: 37% permitted, proposed 40.67% impervious coverage
- Pool not permitted in second front yard
- Accessory Structure (air conditioner unit) not permitted in the front yard
- Maximum height of fence: 4' and 50% open permitted, 6' solid proposed

EXHIBITS:

- A-1 Land Development Application
- A-2 Pool Grading Plan, prepared by Midstate Engineering Inc., last revised December 7, 2021
- A-3 Final As-built Survey, prepared by Insite Engineering, LLC, dated July 14, 2021.
- A-4 Colliers Engineering Review Letter dated January 14, 2022

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. While waiting for the public to respond, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4. As there were no objections to the notice Mr. Kennedy advised he and the Secretary had reviewed and found the notice to be in order.

Jared Pape, Attorney for the Applicant, appearing and presented witness for testimony.

Chester DiLorenzo, was sworn in and presented his qualifications as a Planner and Engineer and was accepted as an expert witness.

Mr. Pape summarized the application for the installation of a pool, deck and fence that required bulk variance relief driven primarily by the lot's rear yard which was technically a second front yard.

Mr. DiLorenzo testified to the characteristics of the property, it's location, and described the variance relief needed due to the second front yard including accessory structure in front yard for deck, pool and air conditioner unit, front yard setback of 27' where 30' required, existing impervious coverage of 30.89%, maximum permitted being 37% and 41.36% proposed and a board on board 6' fence for safety purposes. Some of the needed variances would not be necessary if it were not for the uniqueness of the lot with 2 front yards.

Mr. DiLorenzo opined on the positive impacts of the project included use of the Applicant's rear yard for air, light and open space and recreation, and that the installation of the pool would no compromise the health and safety of the occupants, no adverse lighting associated with the project and the property can be considered under a C1 hardship due to the shape and location of the lot. It was his opinion that the request was modest and located as close to the house as possible. There is existing landscaping along the property and the fence would aid with protecting same as well as provide safety for the Applicant's small children.

Mr. DiLorenzo opined that he did not believe the project was detrimental to the zoning and the improvement would provide for exercise and recreational space. He addressed the Engineer's comments and that the Applicant would comply.

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

Ms. Cooper asked questions about the patio dimensions.

Mr. Foster asked questions about the impervious coverage. Mr. DiLorenzo stated it was his opinion that the water of the pool surface reduces that number. Mr. Foster asked if there was a way to reduce the proposed impervious coverage by 3% to eliminate that variance.

Mr. DiLorenzo testified that they could by reducing the patio or deck but argued that the pool collects water and it was something they could consider.

Mr. Kahle asked questions about the depth of the pool and potential safety issue of someone jumping from shed into the pool. Mr. White responded that there was sufficient distance from the shed. Mr. Kahle asked about the railing. Mr. Kennedy responded that any

resolution would contain catch language that would require the Applicant to accept responsibility for that in accordance with any construction code(s).

Mr. Kahle asked if the landscaping would be inside or outside the fence. Mr. DiLorenzo responded on the inside and would be cedar type.

Mr. Davis asked questions about the deck and stairs, what will connect the steps to the 3' strip of concrete. Mr. DiLorenzo answered nothing, they tried to be mindful of the impervious area. There was discussion after which Mr. DiLorenzo requested the application be amended to add an additional 12 s.f. to add the additional area of the patio for connection to which there were no objections.

Mr. Davis requested that drainage be added to the corner of the house – a leader. Mr. DiLorenzo testified that they will add a leader to a swale to drain to Myrtle.

Ms. Widdis asked questions about the reasons for the deck and 6' versus 4' fence. Mr. DiLorenzo answered the parents would like to be able to watch the children but not necessarily be in the pool. Mr. DiLorenzo responded for privacy as its more like a backyard fence.

Mr. White requested clarification on the fence as the plan currently indicates a 6' vinyl fence but testimony was for a board on board and at one point cedar. Mr. DiLorenzo responded that he testified it was a board on board that would be painted the color of cedar.

Mr. Davis asked about a connecting walkway from the driveway to the pool. Mr. DiLorenzo responded that the access is through the garage. Mr. Davis would like it considered to add a walkway there as it was unrealistic.

Andrew Datre, Owner/Applicant, was sworn in and testified that the materials to be used for the fence would be a tongue and groove cedar fence like a 6' pvc fence but made of natural cedar. He will be putting a gate at the end by the driveway and would have guests using it to access the pool.

Mr. Pape requested a recess to discuss with the Applicant the requested changes.

At 7:34 PM, the Board took a 5-minute recess to allow the Attorney and Applicant to discuss Board comments.

At 7:39 PM, the Board returned from recess with all members previously present.

Mr. Pape stated they would like to amend the application to address the Board's comments and asked Mr. DiLorenzo to described the revisions for proposed impervious coverage which would be less than 20 lineal feet from the driveway, 4' wide to the pool adding an additional 80 s.f. which would bring the variance relief needed to 41.36% coverage and revised plans would be submitted, they will add the drainage requested along the southwest corner of the house to Myrtle Ave. He also advised that they were reluctant to reduce the pool size due to pre-formed option and the next size down was significantly lower, the walkway around the pool was at the 3' minimum and was willing to add landscaping on the outside of the fence once the driveway access from Myrtle was removed by the developer.

Mr. Foster expressed concern with the change in fence types from the adjacent neighbor along Myrtle Ave and would it impact the visual aspect and an aesthetics issue. Mr. DiLorenzo reiterated that the Applicant would be placing additional landscaping and that the cedar fence was in his opinion more natural and aesthetical.

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

Mr. Davis made a motion to approve the application based on the agreed to amendments including extra square footage to cover a walkway landing, two steps to the pool on south side of property and a drain for the corner on rear left corner of the house, landscape buffering of the fence along Myrtle Ave to diminish the change in fence type with the neighbor which was seconded by Ms. Cooper.

Motion to Approve Application as Amended

RESULT:	ADOPTED AS AMENDED [6 TO 0]
MOVER:	Darren Davis, Class IV
SECONDER:	Patty Cooper, Mayor's Designee
AYES:	Whitson, Kahle, Cooper, Davis, Widdis, L
NAYES:	Foster
ABSENT:	Tvrdik, Widdis C., Kleiberg
RECUSED:	Dailey

At 7:43 PM Mr. Dailey re-entered and Mr. Tvrdik entered the meeting.

2. PB2021-23 Arce, Rosetta

49 Sagamore Ave

Block 11, Lot 25

Variances for shed

- Maximum impervious coverage: 37% permitted, 51.8% proposed – adjusted to 51.44%

- Shed Rear yard setback of 0.7' where 10' required

- Shed Side yard setback of 2.2' where 5' required

EXHIBITS:

A-1 Land Development Application

A-2 Proposed Alterations Arce Residence, prepared by Shore Point Architecture, Inc., dated October 7, 2021

A-3 Topographic Survey of Property" prepared by Lakeland Surveying, dated June 23, 2020, last revised December 30, 2020

A-4 Colliers Engineering Review Letter dated December 1, 2021

A-5 Photographs of Rear Yard Views dated February 22, 2022

Mr. Kennedy asked if there was anyone from the public with a question as to the sufficiency of the notice. While waiting for the public to respond, Mr. White was sworn in. Mr. Kennedy then described and marked Exhibits A-1, A-2, A-3, A-4. As there were no objections to the notice Mr. Kennedy advised he and the Secretary had reviewed and found the notice to be in order.

Andrea Fitzpatrick, Professional Architect, appeared on behalf of Rosetta Arce, presented her qualifications and having appeared before the Board previously was accepted as an expert in architecture.

Mr. Whitson disclosed that he and the Applicant worked for the same employer but he was not a direct supervisor and stated he would be impartial.

Ms. Fitzpatrick introduced and described Photographs of the rear yard which were marked as Exhibit A-5. Ms. Fitzpatrick provided history of the site and a prior application for variance relief sought last year and this application was made to resolve issues regarding setbacks for the existing sheds as well as seek an impervious coverage variance for an at-grade paver patio to replace in the about the same location as the existing elevated deck. Ms. Fitzpatrick referring to Exhibit A-5, described accessory structures and approximate setbacks on lots adjacent to the subject property; evidence that existing sheds have been on site for long time and the Applicant's desire to continue use them in a legal way and resolve the variance issues. Ms. Fitzpatrick further described the characteristics of the lot being undersized, a variance was granted for the house and it was her opinion that the property details present a hardship for the Applicant. There is no garage on the property and the Applicant desires to continue use of the sheds to store bicycles, snow blower and items that they can't get up and down the stairs. The house was constructed was set at 5' above ground level and the deck has 8 risers to get up to the deck. To their knowledge there were no complaints about the shed until the application was made for the pool.

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

Mr. White had no questions or comments.

Ms. Widdis asked if there was an issue with the setback for the shed. Ms. Fitzpatrick responded, yes and identified the variances sought for side yard setback of .07' existing where 10' required for one shed, and the vinyl shed setback of 8' where 10' required; and rear yard setback for vinyl shed of 2' where 5' required.

Mr. Davis commented that the patio does not match up to the path. Ms. Fitzpatrick responded that they are happy to add the additional coverage but this is an existing condition since the owner's purchased the property – so there's no connection from the deck to the driveway.

Ms. Fitzpatrick next provided testimony concerning the request to remove the existing deck and replace with an at-grade patio in a slightly larger footprint where the deck was located. She opined that while decks are not considered in impervious coverage, the existing deck was built with pressure treated wood and several layers of stain and there are no gaps so no drainage flows through it. It's her opinion that the coverage will be the same as what exists currently. She further argued that the elevated deck has presented a privacy issue for the Applicant and would like to bring their outdoor space down to grade to enjoy.

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

Ms. Cooper asked questions about the photographs and clarification of views. Ms. Cooper asked if there was door access to the patio and was told yes, a sliding door as well as steps down and landing.

Mr. Foster asked to confirm they are removing the deck and replacing with paver patio.

Mr. Kahle asked if the stair went down to patio or grass and was told grass.

Mr. Davis asked if there was an access door that comes out from under stairs and was told yes. Mr. Davis asked if the Applicant was willing to make the landing and a gravel path that connects the driveway to the patio and was told yes, but her preference is that the landing at the base of the stairs remain concrete for the stair support. There was discussion on what to adjust to minimize coverage. The coverage calculation incorrectly included the stairs and with that adjustment the coverage number was reduced to 51.44.

Mr. Dailey asked for the difference between the deck and patio. Ms. Fitzpatrick responded the deck is 12x20 and the patio is proposed to be 24x12 – widens to full length of house.

Ms. Widdis asked if the pavers would be flat to ground and was told yes.

Mr. Foster asked questions about drainage and runoff.

Chairman Whitson asked if any additional lighting would be installed and was told no, only what is currently existing.

PUBLIC: Chairman Whitson opened the meeting to questions and statements from the public.

Kathy Kenny, 84 Monmouth Blvd, was sworn in and stated she backs up to the Arce property. She provided information she collected including lot size asked questions

As there was no one else from the public, Chairman Whitson closed that portion of the meeting.

Motion to Approve

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Thomas Tvrdik, Class III
SECONDER:	Joseph Foster, Environmental Commission Liaison
AYES:	Whitson, Kahle, Cooper, Tvrdik, Foster, Davis, Dailey, Widdis
ABSENT:	Widdis, Kleiberg

X. 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.

XI. Adjournment: As there was no further business, the meeting was adjourned at 8:42 pm on a motion by Mr. Dailey which was seconded by Mr. Davis and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary