OCEANPORT PLANNING BOARD
MINUTES
February 10, 2015

Chairman Widdis called the meeting to order at 7:30 p.m. and 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 29, 2015, and by the posting of same on the municipal bulletin board and Borough Web Site.”

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mayor Mahon, Mr. Johnson, Councilman Gallo, Mr. Kleiberg, Mr. Sullivan, Mr. Kahle, Mr. Whitson, Mr. Widdis

MEMBERS ABSENT: Mr. Gruskos, Mr. Fichter, Mr. Savarese

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

BOARD BUSINESS:
Correspondence – Ms. Smith advised receipt of letter of resignation by David Gruskos who needed to step down due to work obligations. Chairman Widdis added that his resignation was accepted with regret and he has served on the Board off and on over the years and brought quite a bit to the table.

William White, Board Engineer and Planner, was sworn in.

OLD BUSINESS:

1. PB2014-07 Parent, Kimberly CARRIED from January 13, 2015
23 Branch Avenue
Block 139, Lot 44

A-6 Minor Subdivision Plat for 23 Branch Avenue prepared by Nelson Engineering Associates, Inc. dated June 6, 2014 last revised January 23, 2015

A-7 Plot Plan prepared by Nelson Engineering Associates, Inc. dated June 6, 2014 last revised January 30, 2015

A-8 Lot Width Data, Branch Avenue prepared by Allison Coffin, P.P.

A-9 Lot Width Analysis prepared by Allison Coffin, P.P.

Attorney Jennifer Krimko advised that all professionals in attendance were sworn in at the last hearing and remained under oath. Ms. Krimko continued that the majority of their testimony had been submitted at the last meeting and Board members had questions specifically as to the location of the proposed house or typical house understanding while they were not constructing a house as part of the application, they would meet as any condition of approval the setback as proposed on the plan and 2) questions as to the size of the other non-conforming lots in the neighborhood they would be presenting as evidence a new tax map and 3) the Board wanted to know how small were the proposed lots in width in comparison to the other non-conforming lots which they would show on a color-coded map.

Chairman Widdis stated that there had been one other issue concerning topo…Ms. Krimko answered yes, that was part of a plan that would be moved in to evidence. The concern was with regard to the grading and drainage whether or not it would work, again, they were not committed to the proposed grading because they don't know what house would be there but had the Engineer prepare a typical grading plan to show a proposed house that met the setbacks and other bulk requirements could be graded so that such all the drainage could go to the street and not to the surrounding neighbors.

Ms. Krimko continued that the plan initially prepared showed the water going towards the rear of the property so they have submitted a revised plan showing the actual proposed grading that would happen with a typical house.

Ms. Krimko then described a revised Minor Subdivision Map last revised January 23, 2015 which was marked as Exhibit A-6. Mr. White commented it appears there's a revision 4 on the drawing. Ms. Krimko answered that was the revision on the next exhibit, the Plot Plan. There was discussion as the Board did not have the document being introduced. Discussion ensued as to what was submitted, when and that the difference between the original document from last meeting and the revised one is the existing grading as opposed to the proposed grading. Ms. Krimko asked Mr. Boesch if the Board reviewed the Plot Plan revised January 30, 2015 in effect they were reviewing the subdivision plan just with some proposed grading. Mr. Boesch answered correct.

Ms. Krimko submitted for the record the Plot Plan revised January 30, 2015 which was marked as Exhibit A-7. Ms. Krimko then asked Mr. Boesch to describe for the Board the changes to the plan from what was previously submitted. Mr. Boesch testified that the changes included topographical changes to address some of the concerns of the Board members and how the property could possibly be developed to have minimal to no impact on the adjacent neighbors. Mr. Boesch testified that they had contacted the County and obtained the topography for those locations. Mr. Boesch stated they also had provided a building envelope of 4,000 s.f. which was the maximum of what could be constructed. Mr. Boesch continued that he had add an additional 3,000 s.f. for other amenities like a pool for the purposes of coverage calculations. Mr. Boesch then described the proposed drainage and how it would flow to the street and away from the rear of the property. Ms. Krimko added that this was just to demonstrate to the Board that based on the existing grading a house at the max size to meet the bulk requirements could positively drain and not affect the neighbors which Mr. Boesch affirmed.

Mr. Boesch then testified concerning the front setback, referring to the data provided by the County, indicating how the one property with the house set far back off the road skewed the average. Ms. Krimko elaborated that the Board had asked to see what the other lots were so that that one lot would not skew the data. Mr. White stated for clarification that that was exactly what the ordinance required and that the house set back was more than 200' away and should not have been included in any calculation. Mr. Boesch stated that concluded his testimony.

Chairman Widdis asked Mr. White if he had any questions.

Mr. White stated that using the County GIS there was an order of error with that and while good to demonstrate where the other houses were, it was not an exact number and when they come in with a plot plan for zoning approval they would have to provide the actual survey data as well as the topographic and appropriate grading plan.

Chairman Widdis asked for questions from the Board.

Mr. Whitson asked as there is a lot of land to the rear of the lot were there any plans to subdivide those lots down the road and was told no, there was not. Mr. Whitson asked if it could be reflected in the deed restriction.

Mr. Kahle asked Mr. White if there was any variance needed for the amount of fill that would be put in there. Mr. White answered no ordinance regulated the amount of fill but they do look at the grading doesn't 1) impact the dwelling and 2) the neighbors. Mr. Kahle expressed concern for the front left corner where it was tight and there was only 15'. Mr. White responded that careful attention would be paid to the house on that corner. There was discussion on how the property line there could address drainage through swales.

Chairman Widdis asked about the storm drain. Mr. White stated the Borough replaced a failing system that went through the backyards over to Elizabeth Drive through South Pemberton and to the creek next to the pump station. Chairman Widdis asked if that was the natural course. Mr. Boesch answered that the rear yard was the natural sump to the neighborhood and those inlets serve as the collection point for the surrounding properties. Ms. Krimko asked any water resulting from new construction would be directed towards the street and not towards the rear and was told yes by Mr. Boesch. Discussion ensued.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions from this witness.As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Ms. Krimko then submitted for the record a Lot Width Data, Branch Avenue chart that was marked as Exhibit A-8 and a Lot Width Analysis which was marked as Exhibit A-9. Ms. Krimko asked Ms. Coffin to discuss where the applicant's lot fits in with other lots in the area and due to the number of non-conforming lots was limited to just Branch Avenue.

Allison Coffin, Professional Planner, described the preparation of the Lot Width Data, where the project lot fits in with surrounding properties, the number of lots, the number of undersized width lots and the number of smaller lot widths than the proposed. Ms. Krimko asked then was it her opinion that what was being proposed fit in with the character of the existing neighborhood. Ms. Coffin answered yes.

Chairman Widdis asked for a summary of the positive and negative criteria testified to at the last meeting. Ms. Coffin then summarized for the Board the testimony given at the last hearing concerning the positive and negative criteria.

Chairman Widdis asked for questions from the Board.

Mr. Kleiberg asked how many of the properties on Exhibit A-9 were in close proximity and tight up to the property line. Ms. Coffin answered that she hadn't examined the side yard setbacks. There was discussion on the building area size and the proposal of a house. Mr. Kleiberg questioned the size of the proposed house and its relation to the other houses in the neighborhood.

Ms. Krimko asked Ms. Coffin if this were to stay one lot conceivably the owners could knock down the existing house and construct an 8,000 square foot footprint and was told yes.

PUBLIC:

Chairman Widdis opened the meeting to the public for questions from this witness. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Ms. Krimko summarized the application and the requested relief and submitted to the Board for a decision.

PUBLIC:
Chairman Widdis opened the meeting to the public for comments on the application from this witness.

Frank Suhan, 28 Elizabeth Drive, was sworn in and commented that if they do build a house and there is a water problem what happens. Chairman Widdis answered that at time of application they would be required to submit a drainage plan for review by the Borough Engineer.

Mr. White responded that his concern is due to a recent issue with the collapse of a storm drain on the property of his adjacent neighbor and explained for the Board the issue that was addressed.

Mr. Kahle asked about requiring a dry well and perking there. Mr. White explained why he believed that was not a suitable solution due to the clay in the soil and that he would prefer not to perk any additional water due to the impacts experienced by the adjacent rear yard neighbors. Discussion ensued.

Ms. Krimko stated that essentially what they were agreeing to was the submittal of a draining and grading plan with the house that would be subject to the review and approval of the Engineer so if dry wells were necessary or whatever was necessary to meet the ordinance and make sure there was no run off they would have to under any circumstance and agreed to it.

Mr. White stated that they would ask for a test pit, see what the soils were and establish the finished floor.

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

Mr. Whitson made a motion that the application be approved as stated which was seconded by Mr. Sullivan. Chairman Widdis asked for any discussion on the motion and stated himself that any approval should stipulate that there be no further subdivisions and that the house has to comply with all the setbacks.

Mr. DeNoia advised that the Board was suggesting that the lot not be further subdivided because what tends to happen is that people come back for a subdivision and argue that the Board created the lot so therefore we’re entitled to a subdivision and wanted to avoid that.

Ms. Krimko commented that in the event that something happens and they downsize the lot size for that zone by ordinance change it would not be right to limit that.

Mayor Mahon commented that he thought it critical that any approval specifically require that the drainage be the sole responsibility of the property owners of those 2 lots and not place an additional burden on the taxpayers and that responsibility not be placed back on the Borough. And that there was no way for the Board to know what that would be without the benefit of the plan that provides that information including the elevations of the corners, the elevations of the houses on either side, and how high would the house have to be and how much fill would have to be added to that property in order to move drainage to the street and seemed it would be a difficult thing to task.

Mr. Kleiberg asked Mr. White what was the distance of the right of way. Mr. White answered the right of way was 35'. There was discussion on where the property line was with the front yard setback and how the ordinance required it be measured.

Mr. DeNoia advised that a member should construct the conditions of what was discussed for the drainage. Mr. White responded that a drainage analysis be prepared that demonstrate that the flow to the system commencing at the northern rear corner of lot 40.02 onto Elizabeth Drive, demonstrate that the system has sufficient capacity for runoff.

Mr. Kahle asked Mr. White there's a line to 28 running through the proposed house, they have 32' as above grade on the property line, what was the driveway height of the lot next door and what would happen there with the water, is that driveway higher, lower or swale to the street. Mr. White answered that they needed to provide additional information to make that determination and what they had provided was a rough demonstration that it could be swaled out to the front – they needed measured topographic survey.

Ms. Smith called the roll:

Mr. Johnson commented that he was not comfortable with another subdivision without a definitive plan for a house right now and was not comfortable with the drainage and that whatever was put up there would impact lot 43 and with respect disagreed with the professional as he believed it could be out of character with the neighborhood.

Chairman Widdis commented that he believed they wanted to create a subdivision that was smaller than what was intended for the zone even though there were a lot of lots smaller.

AYES:	Mr. Whitson, Councilman Gallo, Mr. Sullivan, Mr. Kahle
NAYES:	Mayor Mahon, Mr. Johnson, Mr. Kleiberg, Chairman Widdis
ABSTAIN:	None
ABSENT:	Mr. Fichter, Mr. Savarese

Ms. Smith stated motion does not carry.

Ms. Krimko asked if there was a missing Board member. Mr. Savarese was but he was within the 200' of the property. Discussion ensued on whether another member was available to listen and if it were appropriate to use that mechanism.

Ms. Krimko asked if the Board to not conclude and the motion didn't carry but asked the Board to carry the application one more month for an opportunity to discuss with client to see if a little bit more detail be done to satisfy the concern of some of the Board. Discussion ensued. Ms. Smith added that Mr. Fichter was a member but had not been sworn in. Mr. Kahle asked of the members that voted no, was there anything they could do to change their minds, what were they looking for.

Discussion ensued. As there were no objections by the Board, the matter was carried to the March 10, 2015 meeting with no additional notice required.

NEW BUSINESS:

2. PB2015-01 Gervolino, Allison
   37 Hedge Drive
   Block 140, Lot 7

James and Allison Gervolino, property owners, were sworn in. Mrs. Gervolino explained to the Board the reason for the application including needs for additional storage and off-street parking, described the existing structures and the proposed improvements that will remove the existing carport and the relief being sought for front yard setback on an irregular lot. Mr. Gervolino added by describing the uniqueness of the lot being on the bottom of a horseshoe shaped road thereby giving them two front yards, one of which they consider their back yard, the current space for off-street parking only providing for 2 parking spots which is a problem during snowfalls when all cars have to be off the street. Mr. Gervolino also described the negative impacts of the existing carport including size and whatever is stored in there can be seen by the neighbors. The proposed 2-car garage would provide additional parking and storage.

Mr. White commented on the uniqueness of the lots characterization, why the lot is not a “corner” lot as there is only one road and if the lot was a corner lot advised the Board of the rule that if the creation of the lot was prior to the zoning ordinance being created then the second frontage setback would only require 15’ and not 30’. Ms. Gervolino testified that the lot was created in the 1950’s.

Mr. DeNoia asked Mr. White if it was his opinion that the physical features of the lot and its position with the street are unique and creates need for the variances. Mr. White answered yes.

Chairman Widdis asked for questions from the Board.

Councilman Gallo asked if the driveway would be paved or concrete and was told concrete.
Mr. Kahle asked Mr. White if the driveway location created a site issue coming around the bend with the elevation differences and if a car exiting would be visible to someone coming around the bend and was told yes.

Mayor Mahon stated he had the same concern with the location of the driveway.

Mr. Kleiberg asked if the condensers were staying in the same location and if there was enough to heat/cool the addition. Mr. Gervolino answered that they would stay in the same location and that they would probably have to install a ductless unit as they couldn’t put up due to design of the house.

Chairman Widdis asked what they planned to do with the existing driveway. Mr. Gervolino answered he wanted to cut it back and put bushes in but planned on leaving it their as he has ice boats and would want to put a trailer there once in a while.

Chairman Widdis stated they would have to take out the existing driveway. Mrs. Gervolino asked then only have the 1 driveway and was told yes.

Chairman Widdis commented that he would like it stipulated that the area on the bend have no landscaping and be completely open to provide sufficient site distance for those travelling on Hedge Drive around that bend. Mr. Gervolino agreed and they have no intention of putting in a fence or other landscaping. Mr. White said he would take a look at the site triangle there.

Mr. Gervolino asked if they had to remove the small bushes already located there. Chairman Widdis answered that they might have to depending on what Mr. White says. Mr. White added that he would look at it and gave an example of another location in town where owner had wanted to put in a hedge which created a site distance issue so he would take a look at it.

Mr. DeNoia asked then a resolution would say no landscaping shall impact the site triangle. Mr. White answered that it was already in the ordinance but would have the applicant add it to their plan so it was on the record.

Mr. DeNoia asked what were they doing with the driveway and was it becoming a condition. Chairman Widdis answered it was his choice that it should be. Mayor Mahon asked you mean the removal of the existing, was told yes, and said that it makes sense.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions or statements.

Steven Foster, 41 Hedge Drive, was sworn in and commented that he had the longest shared property line with the Applicant and he had no objection to the application.

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

Mr. Johnson made a motion to approve the application which was seconded by Mr. Kleiberg and received the following roll call:

AYES:	Mr. Whitson, Mayor Mahon, Mr. Johnson, Councilman Gallo, Mr. Kleiberg, Mr. Sullivan, Mr. Kahle, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Fichter, Mr. Savarese

Ms. Smith stated the motion carried.

3. PB2015-02 Veal, Robert & Arlene
500A Branchport Avenue
Block 65, Lot 33

Mr. Sullivan recused himself as a property owner within 200'.

Robert and Arlene Veal, owners and Applicant, were sworn in. Jeremiah Regan, Architect, was sworn in, presented his qualifications and was accepted by the Board as an expert in the field of architecture.

Mr. Veal testified that the application was due to Hurricane Sandy which impacted their house. Mrs. Veal testified that after the damage was done, the house was made of old cinder blocks and they were told it couldn't be raised and they needed the improvements for accessibility as Mr. Veal was in a wheelchair.

Mr. Regan explained that the property had been significantly damaged during Super Storm Sandy and the Applicant was proposing to construct a new single family home, described the proposed improvements including flood elevation requirements for the flood zone, ramps and

Americans With Disability Act (ADA) accessible features as Mr. Veal is disabled and utilizes a wheelchair and that one of the reasons they were before the Board was because the lot was a flag lot.

Chairman Widdis asked Mr. Regan to describe the features of the house, number of bedrooms, size.

Mr. Regan testified that the house would be 4,800 s.f. living space, that design would allow Mr. Veal access to every room and closet, ramps that would allow Mr. Veal easy access into and out of the home and a lift in the garage, the increased elevation to meet flood zone requirements and flood vents.

Chairman Widdis asked how they calculated the height and was told from the crown of the road, asked what the height to the ridge was and was told 33' 9".

Chairman Widdis asked that they address Mr. White's review letter concerning the impervious surfaces.

Mr. Regan testified that the impervious surface was largely due to the fact that the lot was a flag lot and that the driveway was of considerable length that was already paved and they had no plans to change that or the elevation of that part of the driveway. Mr. Regan then indicated on the plan where they intended to elevate the driveway so that Mr. Veal can get into the garage and have a 2' difference between the garage floor and the house so that the ramp needed to get into the house would meet the ADA requirement and not take up a huge amount of space. Mr. Regan continued that another factor for the impervious coverage was the need for a hard surface so Mr. Veal could move around the yard, the pool and access to the detached garage in the back. Mr. Regan added that the driveway itself was about 21% of the lot and most of that was to get to the main part of the lot.

Mr. White commented that he just did a quick calculation and if you took out the pole part of the flag lot there would only be 40.8% coverage as compared with 47.3% coverage.

Mr. White asked Mr. Regan would the impervious coverage be reduced if the ADA features of the house were removed would it decrease the footprint of the house and therefore the impervious coverage. Mr. Regan described what areas could be reduced and thereby would decrease the footprint. Also because of being in a flood zone the house had to be elevated and the ramps to get in and out of the house in terms of the steepness were quite extensive and his plan was to terrace it off and raise the driveway to reduce the ramps.

Mr. White asked how far was the driveway from the property line and was told more than 30'. Mr. White asked how he was raising that area – was there a retaining wall along there. Mr. Regan answered where there would be a retaining wall, what the spot elevations were on the adjacent property, the top of the retaining wall would be at 10 and he didn't want to make the driveway to steep making it difficult for Mr. Veal to get around.

Mr. White stated his concern was the 2' drop and anyone backing out of the driveway not seeing the wall, no fence, no curbing to stop from backing off of it and asked for a visible feature to bring attention to it. Mr. Regan suggested a see-through type fence on the retaining wall. Mr. White advised his concern was for someone to back up and drop off over the edge. Mayor Mahon commented then you want it to be more like a curb. Mr. White said he wants a curb but also a visible cue that a backup sensor would trigger.

Chairman Widdis asked how the drainage would be dealt with. Mr. Regan answered that it currently drains to the left – the south and indicated on the plan where the wetlands were. Mr. Veal testified to the drainage pattern from his observations which Mr. White confirmed was correct. Chairman Widdis asked how the drainage would be impacted from the driveway being elevated. Mr. Regan answered that there was a swale there to address any runoff. Discussion ensued.

Mr. Johnson commented that he had lived in that area for a brief time and felt that the improvements would be a good addition to the neighborhood.

Mr. Whitson pointed out that the plan shows 2 ½ story but testimony was for a 2-story and was told it was 2 story. Mr. Whitson pointed out that the plan shows the height as 34' 8" but Mr. White's letter says 33' 8" and asked which was correct?

Mr. Whitson asked if there would be electricity in the standalone garage and was told no. Mr. Whitson asked if it would have plumbing and was told once the wood foundation was taken down it wouldn't function as a garage again and would be used for storage and for his master garden. Mr. Whitson asked if it would have plumbing and was told yes, for hot and cold out for a shower. Mr. Whitson asked if it would ever be used as an apartment and was told no.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions or statements from this witness. As no one from the public wished to be heard Chairman Widdis closed that portion of the hearing.

Mr. Johnson made a motion to approve the application which was seconded by Mayor Mahon and received the following roll call:

AYES:	Mr. Whitson, Mayor Mahon, Mr. Johnson, Councilman Gallo, Mr. Kleiberg, Mr. Kahle, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Fichter, Mr. Savarese

Chairman Widdis opened the meeting to the public for any comments or questions.

PETITIONS FROM THE PUBLIC: Chairman Widdis opened the meeting to Petitions from the Public and as no one from the public was present closed that part of the meeting.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 9:05 p.m. on a motion by Mr. Whitson which was seconded by Mr. Kahle and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary