OCEANPORT PLANNING BOARD
MINUTES
JANUARY 13, 2015

Mrs. Smith 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 December 25, 2014, and by the posting of same on the municipal bulletin board and Borough Web Site."

Mrs. Smith led the flag salute.

OATHES OF OFFICE:
The following individuals were sworn in:

Michael Mahon	Class I (Mayor's Designee)
Richard Gallo	Class III (Council Liaison)
John Kahle	Class IV (Regular Member) – unexpired term

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

MEMBERS ABSENT: Mr. Gruskos, Mr. Fichter

OFFICIALS PRESENT: Jeanne Smith, Board Secretary, Rick DeNoia, Board Attorney and William White, Board Engineer and Planner

ELECTION OF CHAIRMAN: Mr. Whitson moved to appoint Christopher Widdis Chairman for 2015, which was seconded by Mr. Kleiberg and approved by the Board with Mr. Widdis abstaining.

ELECTION OF VICE CHAIRMAN: Mr. Kleiberg moved to appoint James Whitson Vice Chairman for 2015 which was seconded by Mr. Johnson and approved by the Board with Mr. Whitson abstaining.

APPOINTMENT OF BOARD ATTORNEY: Chairman Widdis asked for a motion to appoint Rick DeNoia Board Attorney for 2015 which was moved by Mr. Whitson and seconded by Mr. Kahle and unanimously approved by the Board.

APPOINTMENT OF BOARD ENGINEER/PLANNER: Chairman Widdis asked for a motion to appoint William White, Maser Consulting as Board Engineer/Planner for 2015 which was moved by Mr. Johnson and seconded by Mr. Whitson and unanimously approved by the Board.

APPOINTMENT OF BOARD SECRETARY: Chairman Widdis asked for a motion to appoint Jeanne Smith as Board Secretary for 2015 which was moved by Mr. Whitson and seconded by Mr. Johnson and unanimously approved by the Board.

BOARD BUSINESS:

1. A Resolution Approving the 2015 Meeting Schedule was approved on a motion from Mr. Johnson and a second from Councilman Gallo and approved by the Board. **PR-15-01**

2. A Resolution Appointing a Conflict Engineer for 2015 was approved on a motion from Chairman Widdis which was seconded by Mr. Kleiberg and approved by the Board. **PR-15-02**

3. Minutes of the meeting of December 9, 2014 were approved as presented on a motion from Mr. Whitson and a second from Mr. Johnson and approved by the eligible Board members.

Chairman Widdis asked if there were any objections by the Board to take agenda out of order and begin with the new business. As there were no objections Chairman Widdis asked the applicant for 23 Branch Avenue to present.

NEW BUSINESS:

1. PB2014-07 – Parent, Kimberly
   23 Branch Avenue
   Block 139, Lot 744
   Request for Minor Subdivision with Variances

A-1 Minor Subdivision Plan prepared by Nelson Engineering Associates dated June 6, 2014, last revised June 16, 2014
A-2 Survey prepared by Charles Widdis Surveying LLC, dated October 5, 2014
A-3 Concept Subdivision Plat prepared by Nelson Engineering Associates dated January 12, 2015
A-4 Minor Subdivision Plat prepared by Nelson Engineering Associates dated June 6, 2014, last revised June 13, 2014
A-5 Tax Map Exhibit of Lots with Nonconforming Width

Jennifer Krimko, Attorney for Applicant, appeared before the Board, requested confirmation that Mr. Savarese would be recusing due to ownership of lot adjacent to Applicant and introduced several exhibits which were marked **A-1, A-2** and **A-3.** Ms. Krimko then described the characteristics of the subject property including over-sized lot with existing house, detached garage and pool and that the Applicant was proposing to subdivide the property into 2 lots which would exceed the lot area required for the zone, no bulk variance relief being sought for existing or new structures but needs relief for lot width of 92.09' where 125' required.

David Boesch, Nelson Engineering, appeared in his capacity as Project Manager and was not qualified as an expert in any field.

Mr. White asked that the Applicant address the request for submission waivers as the application was not deemed complete for hearing. Mr. DeNoia briefed the Board on the process.

Ms. Krimko stated that the subdivision checklist anticipates proposed construction and the checklist seeks information about a proposed home and how the drainage would work whereas other municipalities provide for a submission waiver when no construction proposed any approval was subject to submission of those items. Ms. Krimko summarized the items they were seeking waivers for including updated survey which they've submitted, front yard setback average, architectural plans as no dwelling proposed, topographic survey and demonstration of existing drainage patterns which the Applicant was proposing no changes to the existing drainage, and footprint of proposed structure.

Chairman Widdis commented that there was an existing area that observation shows is in a big hole and there's no topography to address that which could become a lake.

Ms. Krimko responded that there had been drainage issues in the past which the Borough had resolved with the replacement of a drainage pipe. Mr. White advised the Board of the work done and that the Applicant had provided an easement to the Borough for a part of that project. Mr. White continued that he could not speak to how the rest of the Applicant's lot drained but advised that most of what collects does drain to the system at the right rear corner of the property from the street.

Ms. Krimko opined if they were to construct a house they would have to submit a grading and drainage plan for approval by the construction department and Borough Engineer but they can't propose a plan for a house that doesn't exist. Chairman Widdis stated he wasn't suggesting that but that he wants to know what the topo was for the site. Discussion ensued.

Chairman Widdis invited comments from the other Board members.

Mr. Whitson wants to see the information before he would consider a vote.
Mr. Sullivan said he was not sure.
Ms. Krimko asked whatever it shows they're not planning to put anything up.
Mr. Whitson responded but in a month they could come back with a proposed house if it were approved and there was a concern with drainage to the neighbors and the Board wanted input.

Mr. Kahle asked where the easement was which Mr. White pointed out. Mr. Kahle stated he wanted to see more information.

Mayor Mahon stated that drainage was a frequent issue with construction and saw why the Board wanted the additional information so they could consider the whole picture.

Mr. Kleiberg asked why were they doing this, if they weren't going to spend the money to build a house why do it? Ms. Krimko answered they eventually may for their daughter. Mr. Kleiberg commented then why wouldn't you do it then and he didn't see it after the rain last Friday but imagined there was a lot of water down in there.

Mr. Johnson commented that he understood why the Applicant wanted the project but also saw why any building there would affect the neighbors.

Ms. Krimko asked the Board if they would consider going through the planning aspects from the planner and hear what neighbors have to say and then depending on what direction it went perhaps then make the decision to adjourn to provide some of that grading information and show a typical building footprint and how it could potentially work on the site as opposed to an exact building footprint and show how the grading might work.

Chairman Widdis asked if everyone okay with that to which there were no objections.

Mr. DeNoia commented that the Board has had a minor problem in the past where a subdivision was created and then someone came in later for variances and then argued that the Board created the subdivision so we need the variances because the Board created the problem indirectly by giving the subdivision and that was why the Board was sensitive to hypotheticals that would be resolved in the future sometimes a new owner comes back because the property was sold and says they know nothing about that but all he knows is that the Board created the lot and there's this issue that needs relief as the hardship wasn't theirs.

Ms. Krimko responded that she felt by showing a typical house can exist there without the need for variance relief and showingthe existing drainage problem could resolve that and they should get through some of the planning issues first.

Mr. Kahle asked the house to the right that sits back so if they did the 200' rule and that house sits back doesn't that affect where that house would sit on the lot – back deeper than the existing house. Mr. White pointed out that the house to the left was closer to the street by about 40'. Mr. Kahle stated he would like to know the averages so he could know where the house would sit and the building envelope.

Mayor Mahon added that was the problem with an incomplete picture – dealing with hypotheticals. Ms. Krimko responded that they could show a typical building footprint respecting all the required setbacks and showing the drainage patterns think it would take away any hypotheticals.

Mr. Kleiberg asked what about the 3rd lot and was told that was just a potential concept plan that would show from a planning perspective to basically show from a density perspective they were proposing less than what the zone would allow.

Mayor Mahon asked if the owner had engaged an architect and was told no.

Mr. DeNoia suggested that if they were putting box on that they show the largest building envelope allowed as they may be limited to what was shown and wouldn't be able to come back for variances on that lot as the approval was based on certain representations.

Ms. Krimko next introduced a colored rendering of Exhibit A-1 which was marked as **Exhibit A-5** and then asked Mr. Boesch to point out the lots features as shown on the Exhibit including size, lot area, frontage, shape, lot depth, that conforming lots could be designed from the parcel but why the 2 lot proposal versus 3 lots was a better alternative plan although seeking relief for lot width, the reason for the location of the dividing line between the lots so to eliminate any need for variances for existing structures, the lot areas for the new lots. Mr. Boesch stated that in general the property does drain from southeast to northwest but understands that that information would need to be revisited and provided.

Ms. Krimko asked then the only variance is for lot width which was measured from the setback which Mr. Boesch confirmed yes. Ms. Krimko advised that after Mr. White's letter an updated survey was done and there were discrepancies and as a result would be submitting a revised plan to skew that line to address those inconsistencies but did not impact the variance relief being sought which Mr. Boesch answered correct.

Mr. DeNoia asked if the plan with 3 lots would be conforming with no need for any variances. Mr. Boesch answered yes. Chairman Widdis asked if Mr. White had reviewed the 3 lot plan and was told no. Chairman Widdis commented then they were just taking Mr. Boesch's information at face value. Mr. White pointed out that the 3-lot would trigger stormwater management but as a 3-lot plan it appears to be conforming. Ms. Krimko responded that they were not saying the plan was complete for engineering but from a zoning perspective.

Mr. DeNoia commented that if their argument is going to be that there's a hardship and that all of the positive and negative criteria as part of the presentation, the practical concern that he has is if there is a lot that can create 3 conforming lots without any variances and were asking for the ability to create 2 lots that do need variances that sort of mitigate against part of the concern with everything from hardship to the positive and negative if in fact you could create a totally non-conforming subdivision and if the Board doesn't take into account that that is accurate he believes that the testimony from a planning standpoint would play upon the fact that the 2-lots were a better planning alternative than the 3 lots that would be conforming and he has a concern as to presenting this in concept but not really accepting whether it may or may not be accurate because it's going to be part of what is being presented as the basis and reasoning behind why the variances should be granted.

Chairman Widdis asked the Board for any questions of Mr. Boesch.

Councilman Gallo asked about #2 of Mr. White's letter that a variance was needed for the driveway.

Mr. Boesch responded that the adjustment from the new survey from the old survey which will address that southwesterly property line distance to the driveway and will conform with future submissions.

PUBLIC:
Chairman Widdis opened the meeting to the public for any questions of Mr. Boesch and as no one from the public wished to be heard Chairman Widdis closed that portion of the meeting.

Allison Coffin, Professional Planner, was sworn in, presented her qualifications and was accepted by the Board as an expert in planning.

Ms. Krimko introduced an exhibit of lots with nonconforming width which was marked as **Exhibit A-5.**

Ms. Coffin stated that in advance of the meeting she had reviewed the site, reviewed the character of the surrounding area, the zoning ordinance and master plan. Ms. Coffin provided planning testimony

including the lots characteristics, features of the new proposed lots, existing structures on one new lot and none on the 2nd lot, the permitted uses for the zone, compliance with bulk variances with the exception of relief being sought for lot width. Ms. Coffin continued testimony concerning the requested relief, her opinion that the requested relief could be met under both the C-1 or C-2 standard, what qualifies as a hardship, the subject site was exceptionally narrow relative to its width, and it was the narrowness that drove the hardship as if the width and length were reversed would provide 3 conforming lots and that the requested use for the lot was not inconsistent with the zoning plan and therefore the narrowness of the lot limits the extent by which the site could be reasonably used and was why in her opinion the relief could be granted under C-1 hardship standard. Ms. Coffin continued that the relief could also be granted under the C-2 standard, discussed the size of the lot not in character of the neighborhood, most of the other lots on Branch Avenue neighborhood were smaller and were consistent with the smaller lot sizes, the proposed density was in line with the density for the zone, that the oversize nature of the lot was an inefficient use of land and was inconsistent with the character of the surrounding area. Ms. Krimko added that they were not proposing that open space was inefficient but was in lieu of the standard of the ordinance. There was additional discussion concerning open space, density and efficient use of space.

Ms. Krimko asked Ms. Coffin to address the negative criteria. Ms. Coffin testified that it was her opinion that there wasn't a significant detriment to the public good but when looking at lot width standard there were 2 key impacts – 1) insuring adequate lot width to promote the use of the property without negatively impacting light, air and open space – which the proposal meets all required setbacks and therefore the impacts were negligible; 2) promotion of consistent streetscape which goes to the character of the neighborhood – Ms. Coffin described the existing streetscape which was already irregular and contained a significant number of undersized lots and it was her opinion that there was no negative impact.

Ms. Krimko asked Ms. Coffin if she believed that upon submission that the proofs from a planning perspective have been met or exceeded and was told yes.

Mr. Johnson asked if the other conforming lot was the lot next door and was told yes.

Mayor Mahon asked with mention of the C-1 and the narrowness creating an undue hardship and that it would inhibit the extent of developing the lot and said the hardship actually creates 2 nonconforming lots as opposed to the full extent of development being 3 that conform by her own submission so the C-1 standard argument seems to counter itself – conflicts. Mayor Mahon continued that on the C-2 she raised that the municipality determining in advance where it would be better to have a higher density versus another and asked if it was fair in Oceanport density, that smaller lots are in other neighborhoods and that the Governing Body had decided that this was the area where the density should be less. Ms. Krimko clarified that the density was in line with that particular zone and that the zone says it could be much more dense than what the lot has. Mayor Mahon commented that he thought what was positive was that there were only 2 other lots that had conforming widths so that was unique.

Mayor Mahon questioned whether the original question posed by Mr. White had been answered and if the presentation up to this point was informal. Chairman Widdis answered that they were going through some of the planning issues but certainly would not be voting on the matter that night.

Mr. Kahle asked if the 5' setback for the driveway would change the centerline and therefore change the distance for one of the lot widths and if so would it be reflected in a new plan. Mr. Boesch answered yes, it would be reflected on the plan but would not impact the width as the angle occurs forward of the setback line where the width is measured.

Chairman Widdis commented that he heard them that none of the lots on Branch Avenue really comply with the lot width now, however, most of the lots on the street are much bigger, maybe 10-15%. Ms.

Coffin answered it was a mix. Ms. Krimko added that they could add that information for a comparison for the next time.

Chairman Widdis asked about the lots in white on the exhibit and what were they and was told conforming lots. There was discussion on whether it would be smaller than the existing non-conforming lots and would like to see how much smaller the proposed lots width would be compared with the other lots non-conforming widths. Ms. Krimko responded that they would get that information and provide it.

PUBLIC:
Chairman Widdis opened the meeting to the public for any questions of that witness and as no one from the public wished to be heard Chairman Widdis closed that portion of the meeting.

Mr. Kahle asked the others if they were concerned at all about the location of the house and where it would sit under the average setback ordinance. Ms. Krimko responded that they would submit that building envelope in accordance with the average. There was discussion on what lots would be included in the average so that it wasn't skewed but be consistent with the street.

PUBLIC:
Chairman Widdis opened the meeting to the public for any questions or comments and as no one from the public wished to be heard Chairman Widdis closed that portion of the meeting.

Ms. Krimko then requested to have the hearing carried to the next available meeting and as there were no objections the hearing was carried to the March 10, 2015 meeting with no additional notice required.

Mr. DeNoia stated for the record that notice was reviewed and in order and in the process of separating the matter from completeness review to planning review the Board Engineer/Planner had not been sworn in. Mr. White was then sworn in as the Board's Engineer/Planner and that statements and questions were for the entire meeting.

OLD BUSINESS:

1. PB2012-14.1 Village Center LLC
   Block 88, Lot 26.01
   Site Plan

Mr. Savarese resumed his position.

Mr. White asked for the Board's input on the type of fountain to be placed on the site as the original approval was not specific and the Administrator had suggested getting the recommendation from the Board. Hand out was provided in advance of the meeting. After discussion the Board directed Mr. White to advise the owner to install what was originally approved.

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 8:44 p.m. on a motion by Mr. Whitson which was seconded by Mr. Sullivan and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary