

**OCEANPORT PLANNING BOARD  
MINUTES  
JANUARY 12, 2016**

Mr. 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 and publication on December 25, 2015, and by the posting of same on the municipal bulletin board and Borough Web Site."

Mr. Widdis led the flag salute.

**OATHES OF OFFICE:**

The following individuals were sworn in:

Cullin Wible	Class I (Mayor's Designee)
Patty Cooper	Class III (Council Liaison)
Christopher Widdis	Class IV (Regular Member)
Robert Proto	Alternate II

**MEMBERS PRESENT:** Mr. Wible, Mr. Foster, Councilwoman Cooper, Mr. Sullivan, Mr. Kleiberg, Mr. Kahle, Mr. Savarese, Mr. Proto, Mr. Whitson, Mr. Widdis

**MEMBERS ABSENT:** 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 2016, 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 2016 which was seconded by Mr. Foster and approved by the Board with Mr. Whitson abstaining.

**APPOINTMENT OF BOARD SECRETARY:** Chairman Widdis asked for a motion to appoint Jeanne Smith as Board Secretary for 2016 which was moved by Mr. Whitson and seconded by Mr. Kahle and unanimously approved by the Board.

**BOARD BUSINESS:**

1. A Resolution Approving the 2016 Meeting Schedule was approved on a motion from Mr. Foster and a second from Mr. Kahle and approved by the Board. **PR-16-01**
2. A Resolution Appointing Board Attorney for 2016 – Chairman Widdis commented on the receipt of proposals, parties that submitted, the selection of Mr. DeNoia because of experience and rates and asked for a motion which was moved by Mr. Whitson, seconded by Mr. Kleiberg and approved by the Board. **PR-16-02**
3. A Resolution Appointing a Board Engineer/Planner for 2016 – Chairman Widdis commented on the receipt of proposals, parties that submitted, rates, the selection of Mr. White who is also the Borough's Engineer and long-time resident of Oceanport and asked for a motion to approve which was moved by Mr. Whitson, seconded by Mr. Kahle and approved by the Board. **PR-16-03**
4. A Resolution Appointing a Conflict Engineer for 2016 – Chairman Widdis stated that David Marks of T&M Associates, also a resident of Oceanport and a Borough Special Projects Engineer had been selected and made a motion to approve which was seconded by Mr. Kleiberg and approved by the Board. **PR-16-04**
5. Minutes of the meeting of December 8, 2015 were approved as presented on a motion from Mr. Foster and a second from Mr. Kahle and approved by the eligible Board members.

**OLD BUSINESS:** None

**NEW BUSINESS:**

1. PB2015-19 Goldfine, Matthew  
5 Blue Point Cove  
Block 72, Lot 4.03  
Request for Bulk Variances

Mr. DeNoia stated that the Applicant had complied with the service of notice requirements and the Board accepted jurisdiction.

The following persons were sworn in: William White, Board Engineer/Planner, Matthew Goldfine, Owner/Applicant and Donald Passman, Professional Architect. Mr. Passman presented his qualifications and education and was accepted by the Board as an expert in the field of architecture.

Mr. Goldfine gave a history of his ownership, circumstances concerning his mother who needed to move in after a fall, improvements made to the interior of the home to address accessibility and now desired to improve the backyard, deck, area around pool for accessibility for the mother as well. Mr. Goldfine testified that he had spoken with the neighbors concerning the conditions of the exterior, plans to make the property beautiful.

Mr. Passman testified concerning his involvement in the design of the improvements, the decks and walkways that required variance relief for maximum impervious coverage, side yard setback for the accessory structure and why the accessory structure was not considered part of the principal structure and maximum lot coverage. Mr. Passman further testified as to the proposed improvements and the design for wheelchair accessibility.

Chairman Widdis asked for questions from Mr. White and Board members.

Mr. White asked Mr. Passman questions about the walkways, steps, what was located under them. Mr. White stated that the materials used allowed water to flow through and therefore did not need to be included in the impervious coverage. Mr. Passman confirmed that they had not been included in the calculation.

Mr. White stated for the Board the 3 variances, an explanation of why the deck was considered an accessory structure and the difference in setbacks for accessory versus principal structure.

Mr. Whitson asked about lighting and what plans were there. Mr. Goldfine answered that they did not have a lighting plan at yet but the plan was for low-key lighting and would take neighbors into consideration.

Mr. Foster asked the Applicant to describe the property to the right in relation to the side yard setback. Mr. Goldfine described the improvements along the property line including landscaping, decking. Mr. Foster asked if Mr. Goldfine had attempted to acquire additional land to eliminate one of the bulk variances and was told no, he had not. Mr. Foster asked about the flood plain elevation – was it 12'. Mr. White answered inside the bay there it drops to 8' or 9'. Mr. Foster asked did he need CAFRA approval and Mr. Goldfine answered yes, he had hired an engineering firm to submit the application to DEP. Chairman Widdis commented that any resolution would make that a condition of approval.

Mr. Kahle asked questions about the steps to the wood decking. Mr. Passman answered including grading, elevation of steps that follow grade, more like landscaping and sitting on grade. Mr. Kahle asked about the driveway cuts and the boat parked up in the front yard. Mr. Goldfine stated it was existing depressed curbing prior to his purchase of the property. He did put the boat there this year and testified that he hadn't realized how large it was and would be removing the boat. The stone in front would be for the construction process only for equipment access.

Mr. Kleiberg asked if the rubble on the property was being removed. Mr. Goldfine answered it was recycled concrete and was for the construction only and would be filled in and graded once done.

Mr. Savarese asked about the footings being sonitude and weren't pilings needed. Mr. Goldfine answered they were just sonitudes but were called bigfoots that were like cason to take up the soil condition.

Mr. Wible asked questions about maximum lot coverage for the deck and asked if it were attached to the primary structure what would the variance need to be. Mr. White answered for principal structure it was 25% and would exceed it and amounts to a tradeoff of the variance. Mr. Goldfine commented that overall they have reduced the impervious coverage.

Mr. White further commented on Mr. Foster's question about the acquiring of property and pointed out the lot sizes of adjacent lots were not sufficient to sell any off to make Mr. Goldfine's lot compliant.

Chairman Widdis asked where the pool stuff would be kept. Mr. Goldfine answered the equipment would be on the side of the house and there would be a barrier of some kind for a buffer and for the pool toys would be in one of the bays of the garage.

Chairman Widdis asked what type of fence would be put around the pool. Mr. Goldfine answered a cable rail type to keep visual as clean as possible. There was discussion on the fence requirements needing to be non-climbable. Chairman Widdis asked that the Applicant be aware of the adjacent neighbor being able to look without obstruction as their house setback. There was additional discussion on whether cable rail was compliant with Mr. Goldfine testifying that he would do whatever needed to be done to be code compliant.

**PUBLIC:**

Chairman Widdis opened the meeting to the public for questions for this witness only.

Vincent Green, 3 Blue Point Cove, asked if pool was below or above ground and was told above ground; asked how high deck would be and was told grade was 5 and the deck curve would be at 10' with fence above that as handrail/fence. There was discussion on the height and how to reduce the impact with Mr. Goldfine stating he would do whatever needed to be done and was willing to work it out, perhaps by fencing the yard. Chairman Widdis asked for the Applicant to describe better for the record what the appearance of it would be with Mr. Goldfine stating he would use landscaping and the decking so that it wouldn't look like an above ground pool. Mr. Green asked how long the entire project would take before it was all finished and was told about 3 months after he receives all his approvals.

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

Chairman Widdis invited comments or additional questions from the Board.

Mr. Foster asked what was the overall depth of the pool and was told 3'-5'.

**PUBLIC:**

Chairman Widdis opened the meeting to the public for statements or comments on the application.

Pam Green, 3 Blue Point Cove, was sworn in and commended the Board for taking the time to come by and look at the property and asked how long does a permit stay open as some things have been changed over the last 1 ½ years and some stuff not finished, yard a mess, a big boat, jet ski in the front yard and would like to see something finished before starting something else.

Mr. White responded that this Board does not have the power or jurisdiction concerning construction permits and as long as they are kept current and fees paid they can remain open. There was additional discussion on the types of codes that apply to the various issues including the boat, fill being brought in and not going in to the dredged lagoon channel, the review by the Engineer of a grading plan to address sediment.

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

Mr. Kahle made a motion to approve the application subject to all approvals, lighting, grading plan, that no structure be built on top of the deck and that rail remain clear, glass or cable which was seconded by Mr. Kleiberg, The motion received the following roll call:

AYES: Mr. Whitson, Mr. Wible, Mr. Foster, Councilwoman Cooper, Mr. Savarese, Mr. Kleiberg, Mr. Kahle, Mr. Sullivan, Mr. Widdis  
NAYES: None  
ABSTAIN: None

Ms. Smith stated the motion carried.

2. PB2015-20 Veltri, Richard  
13 Pocano Ave  
Block 39, Lot 5  
Request for Bulk Variances

- A-1 Variance Plan – 13 Pocano Avenue, Colored, prepared by East Point Engineering, LLC dated August 28, 2015**
- A-2 Five Photographs of Surrounding Neighborhood, 2 Sheets, taken by Marc S. Leber, PE, PP, dated January 11, 2016**
- A-3 Location Survey of Prior Residence, prepared by Thomas Finnegan, PLS, dated October 20, 1992.**
- A-4 Architectural Plans, 8 Sheets ZB-1 through ZB-8, prepared by Sincox Associates Architects, dated September 30, 2015, last revised October 28, 2015.**
- A-5 Architectural Renderings, 2 Sheets, prepared by Sincox Associates Architects , dated January 12, 2016**
- A-6 Elevation Plan with Roof Areas above 35’ Marked, prepared by Sincox Associates Architects, dated January 12, 2016**

Mr. DeNoia stated that the Applicant had complied with the service of notice requirements and the Board accepted jurisdiction.

Rick Brodsky, Attorney for Applicant, gave a brief overview of the application, background of ownership, the Applicants being Contract Purchasers, described project which was to build new dwelling on lot where previous dwelling was removed, lot characteristics and introduced the Professionals that would be testifying on behalf of the Applicant.

Marc Leber, Professional Engineer and Planner for the Applicant, was sworn in, presented his qualifications and experience, was accepted by the Board as an expert in engineering and planning.

Mr. Brodsky and Mr. Leber described various documents which were introduced as Exhibits A-1 and A-2. Mr. Leber provided testimony including lot dimensions, square footage of lot, flood hazard area information, description of surrounding properties, variance for lot width and inability to purchase additional land for compliance, described proposed dwelling, pending DEP CAFRA permit, conformance with setback requirements, factors considered for the selected location for the footprint of the dwelling on the lot, driveway length’s impact on impervious coverage, variances sought for lot width, impervious coverage, lot coverage and the positive and negative impacts of the design. Referring to A-2, Mr. Leber further testified as to the side entry design of the driveway and garage, the pool, walkway, bulkhead, crawl space, elevations of the various structures and outside grades.

Mr. Brodsky next addressed the Engineer’s review with Mr. Leber item for item with Mr. White commenting. Discussion focused the need for another variance for the setback for the driveway shown on the plan as less than 5’ (4.42’) and notice provided for the Board to include the additional variance.

Mr. Kleiberg asked if there was any document showing the layout of the prior house on the property and was told yes, an old survey which was described and marked as **Exhibit A-3**. Mr. Kleiberg asked if the distance off the water was the same as the houses 200' to each side and was told 40.4 was the average and they are proposed at 44.04. There was discussion about front versus rear average setback.

Mr. Kahle asked questions about the total coverage area of the driveway, parking, the house, etc. in terms of what was there before and what coverage would be if house was moved forward.

Chairman Widdis asked about the size of the previous dwelling's length and width compared to what was proposed and was told they could get that information. Mr. Savarese asked could they guestimate and was told the architect would testify to that.

Mr. Foster asked about what could be done to use a material more open to reduce the impervious coverage. Mr. White answered they take their guidance from the DEP, but the concern was more for open space.

Mr. Whitson asked Mr. White if the turnaround would work for the driveway and was told it would work, but with a Suburban it would be tight, but he wanted it on the record in the event a future owner asks why it was permitted.

Mr. Whitson asked in the R-3 zone, what was the number of stories allotted and was told 2 ½ .

Mr. Wible asked about the history of the lots in that area being non-conforming. Chairman Widdis advised that they were always there. Mr. White added that they are on the tax map with Riparians shown as 1920-1924. Mr. Wible asked about the driveway being moved to the east side of the property, pulling out of the garage with headlights will go into the property at Lot 6 and asked for some type of mitigating factor to buffer that which Mr. Brodsky responded that the Applicant would be willing to use some type of natural landscaping – evergreen, something that would last all year.

Mr. Wible asked about the setbacks to the house and pool, compared with adjacent properties.

Chairman Widdis asked questions about the pool – was it in the ground or above which would be addressed by the architect.

**PUBLIC:**

Chairman Widdis opened the meeting to the public for questions for this witness only.

Meghan Harmon, 9 Pocano Ave – Lot 6, expressed concern for the height of the garage and its impact on her rear yard; also very concerned about the grading as there is currently flooding and would like to know what would be done to ensure their yard doesn't flood more. Mr. Brodsky answered that the architect would talk about the garage but as to the drainage asked Mr. Leber to address. Mr. Leber answered that Mr. White had requested additional spot elevations for that very issues to show that the water wouldn't runoff onto her property.

Mr. White interjected, for the record, asked if a drainage system that could punch it out to the river that would address the existing problem which he had been unaware of until tonight, install inlets, would help the Applicant as well as the neighbor.

Mr. Kahle asked if the retaining wall was the same height for the whole way and was told yes, existing.

Mr. DeNoia asked Mr. White to provide the specific language for the drainage should it be a condition of an approval.

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

Mr. Brodsky called forward George Sincox, Architect and Planner for the Applicant, whom was sworn in, presented his qualifications and was accepted by the Board as an expert in architecture and planning. Mr. Sincox presented 3 additional documents which were marked as **Exhibits A-4, A-5 and A-6**.

Mr. Sincox provided testimony concerning the design of the house, dwelling location, driveway turnaround, lot coverage, first floor elevation to be set at 12.4, height of the dwelling, outside grade, flood requirements impact on the design, reviewed floor layouts and dimensions and square footage.

Mr. Kahle stated the garage was 28', 10' off west property line, 30' on other side, asked what was the height of the adjacent structures which Mr. Sincox stated he did not have that information.

Mr. Sincox continued with testimony concerning square footage of dwelling areas, description of the proposed rooms on each floor, description of ½ story not being a 3<sup>rd</sup> floor, pool design and location.

Mr. Kleiberg asked to go over the elevations again.

Mr. Savarese asked for ZB-7 sheet which shows that. Mr. Savarese stated he had a problem with the bulk and the height, reviewed the sheet and numbers shown for the elevations and it actually puts the building at 39' from crown of road, commented about the ½ story and once a bedroom up there it becomes a 3<sup>rd</sup> floor and has to meet fire code, etc., he would rather see space added to the 1<sup>st</sup> floor.

Mr. Kleiberg commented if it was being called a habitable attic, it can only be 7' to the collar ties.

Mr. Kahle pointed out that the plan shows "proposed 3<sup>rd</sup> floor plan".

Mr. Whitson asked questions about the height shown on the plans not what was testified to; Mr. Sincox responded that it would be 37.4 which was corrected during the Engineer's review. Mr. Brodsky added that it was corrected in response to Mr. White's comment later in the letter that they would have to raise first floor to comply with flood elevation requirement which adjusts up 0.4.

Chairman Widdis asked for clarification on which number was correct for the height based on what Mr. Savarese had pointed out, and once built how high would the house be. Mr. Sincox asked from the grade or the crown of the road. Discussion ensued. Afterwards Mr. Sincox stated that it was 37.4 from the crown of the road to the top of the ridge. Board members reiterated that it doesn't add up.

Mr. Wible questioned the crown of the road – was it 4.7 or 4.9. Mr. Leber explained the calculation and it was 4.9. Discussion ensued on the conflict of information on the plans not matching. Mr. Leber explained the discrepancy that it was a drafting error and he goes with the land surveyor's plan.

Mr. Kahle pointed out on the survey plan where it shows building height calculations which says elevation at the highest point of the roof 41.9. Mr. Leber responded that was an elevation number, not a height number. There was discussion on the difference. Board members concerned that the data was conflicting between plans and testimony.

Mr. White requested a recess to provide time to go over the numbers.

The Board adjourned at 9:54pm for a 5-minute recess.

At 10:02 pm the Board resumed with Chairman Widdis stating all members previously present.

Mr. Brodsky recounted that there have been issues by the Board especially with respect to the height and they would like the opportunity to prepare a revised set of drawings and asked to continue their

application to a date certain - the next available meeting. There was discussion by the Board as to what they would like to see on the new plans. Afterwards, the Board consented to carry the application to the February 9, 2016 with no additional notice required.

**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.

**EXECUTIVE SESSION:**

Resolution PR-16-05 authorizing the Planning Board to enter Executive Session

**Litigation/Potential Litigation – N.J.S.A. 10:4-12(b)(7)**

AcuteCare

DeMarco Development

At 10:09 p.m. Chairman Widdis asked for a motion on **Resolution PR-16-05** authorizing the meeting to enter Executive Session for the purposes of Litigation/Potential Litigation related to AcuteCare and DeMarco Development which was moved by Mr. Whitson and seconded by Mr. Kahle and approved by the Board.

At 11:14 p.m. the Board returned from Executive Session and the regular meeting was reopened on a motion by Mr. Whitson, seconded by Mr. Savarese and approved by the Board.

Mr. DeNoia stated that the DeMarco Development application would be brought back for reconsideration with new notice required, present why one option is better than another with new Board members to listen to hearings for eligibility to participate in the matter.

Ms. Smith stated that concerning AcuteCare she would performing notice to 200' list, utilities, newspaper, scheduling of professionals for January 26, 2016.

Ms. Smith advised of activity on the Mazza property, updated the Board on an application submitted but was not yet public as it had not been deemed complete.

Ms. Smith then handed out to the Board members a package of information concerning the Borough's Order of Repeal for the Builder's Remedy settlement and upcoming items and actions that would be before the Board.

**ADJOURNMENT:** As there was no further business, the meeting was adjourned at 11:18 p.m. on a motion by Mr. Savarese which was seconded by Mr. Kleiberg and approved by the Board.

Respectfully submitted,

JEANNE SMITH  
Secretary