

**OCEANPORT PLANNING BOARD
MINUTES
February 9, 2016**

Vice Chairman Whitson 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 15, 2016, publication on January 21, 2016 and by the posting of same on the municipal bulletin board and Borough Web Site."

Vice Chairman Whitson led the flag salute.

MEMBERS PRESENT: Mr. Wible, Mr. Foster, Councilwoman Cooper (arrived at 7:45pm), Mr. Kleiberg, Mr. Kahle, Mr. Sullivan, Mr. Savarese, Mr. Fichter, Mr. Proto, Mr. Whitson

MEMBERS ABSENT: Mr. Widdis

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

BOARD BUSINESS:

1. Vice Chairman Whitson stated that the minutes of the meeting of January 12, 2016 were not available and would be scheduled for a future meeting.
2. Proposed Zoning Ordinance Amendment – Vice Chairman Whitson

Mr. White summarized the proposed ordinance, the 2 parcels impacted known as Old Wharf Inn and lot next to it and why it was consistent with the Master Plan regarding the Borough's COAH initiative; ordinance will change zoning to only residential units, intent is for 20 units, of which 4 would be COAH to address the Borough's COAH concerns.

Mr. Wible commented that this would effectively be multi-family housing. Residents have raised concerns such as the Old Wharf Inn's location near water and deal with adequate parking, particularly during flooding. Mr. White responded that there's a height restriction of two stories or three stories if there is parking on the first level. Mr. Wible asked if there was a sample drawing for the project and was advised there was a plan in 2005/2006 that was approved but had DEP and CAFRA issues. The property has a long history, development will need to address DEP and CAFRA issues.

Mr. DeNoia addressed the public regarding ordinance introduction. The governing body must refer the ordinance to the Planning Board to determine consistency with the Master Plan. There is a COAH component to this proposal. He read a memo from Elizabeth McManus, the Borough's COAH Planner, regarding the consistency of the Old Wharf site/Master Plan consistency. It is her opinion that the site is consistent with the Master Plan for inclusionary housing.

Afterwards, Mr. Kahle made a motion to report to the Governing Body that the proposed ordinance was consistent with the Borough's Master Plan which was seconded by Mr. Foster. The motion received the following roll call:

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

Ms. Smith stated the motion carried.

OLD BUSINESS:

3. PB2015-020 Veltri, Richard
13 Pocono Avenue
Block 39, Lot 5
Request for Bulk Variance

CARRIED from January 12, 2016

- A-6 Elevation Plan with Roof Areas above 35' Marked, prepared by Sincox Associates Architects, dated January 12, 2016**
- A-7 Coastal General Permit No. 4 Plan – 13 Pocono, Building Permit Plot Plan/Grading Plan Soil Erosion & Sediment Control Plan, prepared by East Point Engineering, LLC dated August 28, 2015, last revised January 25, 2016**
- A-8 Revised Architectural Plans, 8 Sheets ZB-1 through ZB-8, prepared by Sincox Associates Architects, dated September 30, 2015, last revised January 28, 2016.**
- A-9 Supplemental Roof Area Diagram, prepared by Sincox Associates Architects, undated.**
- A-10 Colored Architectural Concept Rendering, prepared by Sincox Associates Architects, dated February 9, 2016.**

Mr. Brodsky, attorney for the applicants, summarized the application for 13 Pocono Ave including, previous existing house demolished, application seeks approval for construction of a new home, three variances being requested: lot width is 62 ½ feet where 120 feet is required; a height variance for approximately of 37.4 feet on the new construction where 35 is required; and a lot coverage variance, which was reduced from 43.9 percent to 37.52 percent where 37 percent is permitted.

Mr. DeNoia stated for the record that this application had been accepted for jurisdiction and had been carried to this date certain.

The following persons were sworn in: William White, Board Engineer/Planner, Marc Leber, Architect/Engineer for the Applicant.

Mr. Brodsky presented a revised plan which was marked as **Exhibit A-7**. Mr. Brodsky asked Mr. Leber referring to Exhibit A-7 to describe the changes made to the plan as discussed at the previous meeting. Mr. Leber described 10 changes including building height, flood hazard elevation, height calculation, water collection pipes and drainage, adding shrubs to screen headlights. With regard to the driveway, it has been modified to become a ribbon driveway which resulted in a decrease of lot coverage. The side walkway was removed. The bulk requirements table was modified to reflect the modified lot coverage. Mr. Leber also stated the applicant provided CAFRA with riparian zone notes, which quantify the disturbance within the riparian zone from the river.

Vice Chairman Whitson invited questions from the Board.

Mr. Kahle asked about the side yard setback for the driveway and if it required a variance. Mr. White responded that the applicant was going to provide 5 feet of clearance. Mr. Leber testified that there was 4.3 feet. Mr. White explained that because of a one foot bump out, the driveway does not require a variance. Mr. Kahle had previously requested photos of the former home. Mr. Brodsky did not have any photos, but described it briefly for the Board.

Mr. Foster requested clarification on the ribbon driveway and the removal of the sidewalk, specifically the difference in lot coverage. Mr. Leber responded that was factored in the recalculation. Secondly, he asked if the new shrubs would provide sufficient coverage for the adjacent properties. Mr. Leber stated the shrubs would be the obstruction to light, but stopped at the garage because then the garage would be the obstruction. Finally, he asked about the CAFRA note and if it placed a restriction on dockage. Mr. Leber stated it was basically a buffer. The width of the buffer is tied to the category of

the water. The Shrewsbury River is a Category 1 waterway, which carries a 300 foot buffer.

Mr. Sullivan asked what was going to be in the middle of the ribbon driveway. Mr. Leber stated it would be grass.

Mr. Wible had questions regarding height of the previous home and adjacent homes. Mr. Brodsky responded that the lot was narrow compared to the requirements in the zone. There are architectural challenges in providing an acceptable design. Mr. Leber stated there are no other two and a half story houses on the street. There was further discussion regarding height of the applicant's house and those in the neighborhood.

Mr. White asked Mr. Leber, if the Board approved the application, if he would be willing to provide additional information regarding grading and inlets, make sure there is positive drainage, and provide detail for the ribbon driveway. Mr. Leber acknowledged he would.

Mr. Kahle had questions regarding setbacks. Mr. White responded that the driveway was acceptable and did not require a variance.

Mr. Savarese stated he was concerned with lot coverage. Mr. Leber stated some modifications could be made to come within requirements.

Mr. Wible requested a summary of which variances are pending. Vice Chairman Whitson responded that the Board is considering variances for lot width, height and lot coverage, but that the applicant may be willing to modify lot coverage to stay within requirements.

PUBLIC:

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

George Sincox, Architect for the Applicant, was sworn and then testified that the lot is roughly half of what the required lot width is in the area, steps attempted to make the plans compliant, but due to the restrictions of the lot width and flood zone, the two and a half story design was the best option. **Exhibits A-8, A-9 and A-10** were marked, which showed minor modifications. The primary change was lowering the slope and height of the roof to get closer to compliance. Mr. Brodsky read the half story ordinance.

Mr. Foster asked whether the half story was living space or an attic. Mr. Sincox responded that the plans meet the building code requirements for habitable space.

Mr. Kleiberg also asked if the half story was a habitable attic. Mr. Sincox explained there were differences between the Borough's ordinance and the New Jersey Residential Building Code and that it was a half story.

Mr. Savarese asked what the square footage of the attic/half story. Mr. Sincox advised it was 630. The second floor was 2,892. The maximum square footage for a half story is one-third of the floor below, and the plans are below the maximum.

Discussion followed between Mr. Kahle, Mr. Sincox and Mr. Brodsky regarding the differences between the Borough's ordinance and the building code.

Mr. Kahle asked about air conditioning units, pool equipment and setbacks. Mr. Leber stated the pool equipment is going to be enclosed in the crawl space, which is permitted. The air conditioning units are going to be above the second floor, which do not project above the half story.

Mr. Wible asked if the Board would consider modifying the zoning ordinance to permit 40 feet. Mr. White explained that after Sandy, the Board was concerned what was happening in other municipalities

and that flood elevations were raised two feet in some areas. The Board approved an extra five feet for existing houses. Additional discussion followed regarding lot coverage.

Mr. Kahle asked if the plan was to put a gas pool heater in the house. Mr. DeNoia asked if both Mr. and Mrs. Veltri to be sworn. Richard Veltri and Lisa Veltri were sworn. Mr. Veltri advised the pool will be heated off the condensing boilers with a heat exchanger. There will be no gas used to heat the pool.

Mr. Kleiberg asked how the Applicants were going backwash the pool's filter. Mr. Leber advised the newer pumps do not require backwash. Mr. Kleiberg asked how excess water from a storm would be emptied. Mr. Veltri advised if he needed to empty the pool, he would bring a pump in.

PUBLIC:

Vice Chairman Whitson opened the meeting to the public for comments or statement. As no one from the public wished to be heard Vice Chairman Whitson closed that portion of the hearing.

Mr. Brodsky gave closing comments including the Applicant's efforts to balance the construction of a functional and aesthetically pleasing house on a narrow lot and the concerns of the Board. He asked if the Board wanted the Applicant to attempt to reduce lot coverage and that if so, the Applicant would be willing to do that. He requested the Board's instruction on that. He requested the Board to act favorably on the application.

Vice Chairman Whitson made a motion to approve the application with three variances, lot width, height and lot coverage. The motion was seconded by Mr. Foster.

The motion received the following roll call:

- AYES: Mr. Wible, Mr. Foster, Councilwoman Cooper, Mr. Sullivan, Mr. Kahle, Mr. Proto, Mr. Whitson
- NAYES: Mr. Savarese, Mr. Kleiberg
- ABSTAIN: None
- ABSENT: Mr. Widdis
- INELIGIBLE: Mr. Fichter

Ms. Smith stated the motion carried.

INFORMAL PRESENTATION:

4. Verizon Wireless Communications Presentation

Mr. Rick DeLucry, an attorney with Cooper Levenson, addressed the Board and the public. The project is to supplement the existing wireless system on a smaller scale. ODAS, Outdoor Distributed Antenna System, allows for additional capacity for the system in areas where the currency breaker is exceeding the capacity. The goal is to have a comprehensive system of these facilities. The total number is unknown. One site has been identified at Blackberry Bay Park. They are requesting the governing body for authorization and approval for a general or omnibus consent for these types of facilities. Verizon Wireless would also be requesting approval for Verizon Wireless to go directly to the Building Department to submit plans for any given site. Verizon Wireless is asking the Board to give a positive recommendation to the governing body.

Councilwoman Cooper had a question regarding other townships and how many sites were selected and how many were anticipated for Oceanport. Mr. DeLucry did not have an estimate.

Mr. Fichter had a question regarding the radius of service for these systems. Dan Collins, chief technical officer with Pinnacle Telecom Group, was sworn. He testified that these types of sites have been installed countrywide. The coverage is measured in hundreds of feet rather than coverage from rooftop or tower sites which has coverage from three quarters of a mile to a mile and a half radius. Mr. Fichter questioned Mr. Collins regarding the health implications from these units. Mr. Collins

responded that the units are covered by FCC limits. Calculations are made prior to installation to ensure compliance. He discussed safe levels of radio frequency.

Mr. Savarese had a question regarding height of the poles. Mr. Collins responded that the two centerline heights were 27.8 feet and 30.4 feet. Secondly, Mr. Savarese remarked that the modules mounted on buildings were less obtrusive and asked if anyone had looked at the buildings at Blackberry Bay Park instead of telephone poles. Mr. Collins advised these antennas which are on top of a pole, are not much different in width of the pole and range in length from one to two feet. He advised the antennas will be installed on existing poles, not new poles. Mr. Fichter suggested there might be an alternative to 20 of the small cells and instead putting a macro or 150 foot tower in one location, perhaps at Monmouth Park. Mr. Collins responded that installing a macro might actually cover too much area and cause interference with other sites.

Mr. Kleiberg asked what powers the units. Mr. Richard Komissar, contractor for Verizon with Hillson Technologies, was sworn. He testified that a utility box is mounted to the pole, and power is brought in through there. Verizon Wireless has agreements in place with JCP&L. There was discussion regarding fire safety issues. Mr. Foster asked about lobes and coverage. Mr. Collins stated the lobes provide omni-directional coverage. Technical discussion followed regarding sectors and ports. Mr. Proto just wanted clarification regarding demand exceeding capacity. Mr. DeLucry responded that Verizon Wireless identified a need and chose this site to address that need. Mr. DeLucry will contact Verizon Wireless to see if they have determined how many additional sites might be needed for the long term. Mr. Wible asked who owns the telephone poles in Oceanport. Mr. DeLucry stated the one pole selected is owned by Verizon (not Verizon Wireless). Verizon Wireless enters into pole attachment agreements with pole owners to allow them to attach the units to the poles. Technical discussion regarding wattage followed. Mr. Wible also asked for a comparison of exposure from these units to the exposure of holding an iPhone near one's head. Mr. Collins stated probably less exposure than a smart phone.

Vice Chairman Whitson asked if any towns had placed conditions or amended the Old Bridge ordinance. Mr. DeLucry wasn't aware of any. Board Attorney DeNoia stated that based on his understanding of Section 253 of the Telecommunications Act, this is basically a presentation for recommendations to be sent to the governing body. The governing body appears to have the obligation to approve this with conditions. He stated that he reviewed the ordinance from Old Bridge and the proposed ordinance from Oceanport. The Old Bridge ordinance is more inclusive. There's a difference in terms of the general commercial liability limit. Old Bridge has \$2 million versus \$1 million is proposed in Oceanport. He thinks that should be addressed and be consistent. Secondly, there's a provision in the Old Bridge's ordinance that states Verizon Wireless is responsible for all costs incurred in reviewing and approving the requestor's resolution. He believes that should be included in the proposed ordinance for Oceanport. Mr. DeNoia would also like to see a copy of Fort Lee's resolution to determine if they had imposed any conditions similar to Old Bridge's. He suggested the Borough Attorney review those two and compare them to the proposed resolution. Mr. DeLucry will provide that to the Borough Attorney.

Mr. Wible and Mr. DeNoia discussed the obligation of the governing body to approve the project, however, they have the ability to place conditions on the approval, such as insurance and liability to protect the Borough. The purpose of Verizon Wireless' presentation is to have the Planning Board recommend to the governing body that the Board has reviewed it and that from a condition standpoint what they should consider. The Planning Board isn't in a position to determine that. Mr. DeLucry agreed with that analysis. He stated the governing body always has the authority to approve or deny an attachment to a telephone pole. Vice Chairman Whitson asked if the Borough would be notified each time a new unit was added. Mr. DeLucry stated that in each case, Verizon Wireless would have to get a building permit, so in that way, there would be constructive notice.

Mr. Wible questioned whether the Borough is actually to grant the installation of these because the telephone poles are being turned into antennas. Mr. DeNoia stated that he didn't think that was a

question for the Planning Board. The information from Verizon Wireless stated that the Borough of Oceanport may not withhold approval, but it may impose reasonable conditions. That is an issue for the governing body. The Planning Board is not deciding on the legality or interpretation of the Telecommunications Act. He believes the Planning Board's role is to give a separate review from the governing body, and that the Planning Board can say there are certain conditions that are necessary for the governing body to include in the agreement with Verizon Wireless.

Vice Chairman Whitson invited questions and comments from the public.

Roseann Letson, 37 Morris Place, requested a drawing or depiction of the units and was provided a photo. She asked if there was going to be anything on the ground level. Mr. DeLucry stated that depending on who owned the pole, there could be a box on the ground. She asked if the antennas interfered with land line service, Internet service or if any noise was generated from them. Mr. DeLucry responded no to both. Mr. Collins advised that the current service provided is at or near capacity, which is why these antennas are necessary. She wanted an estimate of how many units will eventually be installed or if the amount could be limited to a certain number. Mr. Collins stated that analysis was not done. She was concerned that the presenters didn't have answers to all of the questions asked and requested that if there is a presentation to the Council, that the presentation include answers to those unanswered questions.

Stuart Briskey, 46 Werah Place. He stated he was also a Councilman and asked the Board Attorney if he was permitted to speak. Mr. DeNoia responded that Mr. Briskey should be sworn and then indicate that he is speaking personally, not in his capacity as a representative of the Borough Council. Mr. Briskey was sworn. He wanted to know if the antenna was placed on private property would Verizon Wireless receive revenue. Mr. Collins said it's possible, but he's not aware of any that utility poles have been put on private property. Mr. DeLucry stated that that instance Verizon would be making payments for the right to use that pole.

Vice Chairman Whitson asked if Verizon Wireless would rent any of its capacity to any other carriers. Mr. Collins stated there used to be roaming agreements, but doesn't think they exist anymore.

Mr. Kahle was interested in knowing if Verizon Wireless went before the Council if they would come with a map to show which poles are going to be used and whether there would be a box on the ground or an antenna. He asked if Verizon Wireless had considered Fort Monmouth as a site. Mr. Collins replied that the ODAS provides a smaller area of coverage. Installing a mono pole for example, could cause interference to other sites due to overlap.

Mr. Foster had questions whether these units could fill in if a macro cell was down. Mr. Collins responded that these antennas actually improve the performance of the network around it.

Mr. Wible suggested preparing a list for the governing body to review when they consider the proposed ordinance. His recommendation would be to only approve a single site until they receive a full plan outlining the longer term plan for the Borough. Secondly, see if they can address the visual appearance of the antennas. He would ask that the Council include a wattage limit. Finally, he would ask the Council to look at their agreement with Verizon to determine any changes in ancillary costs or revenue to the Borough. Vice Chairman Whitson commented that the positive elements from the Old Bridge and Fort Lee ordinances should be included.

Mr. Fichter commented that other alternatives need to be explored such as a macro site at possibly Russel Hall or at Monmouth Park to provide service. He stated his recommendation would be for a single site in order to solve a bigger problem with a single site with less visual impact. Mr. Foster seconded the motion.

There was continued discussion regarding overall recommendations to the governing body. Consider single site, map of potential locations, review the Old Bridge and Fort Lee ordinances, include liability, costs incurred to the Borough, requirement to return if there is an increase, estimate on the number of

sites, appearance of the antennas, and not an omnibus recommendation. The Board recommends specific sites.

Mr. Wible made a motion to recommend the application which was seconded by Mr. Foster. The motion received the following roll call:

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

Ms. Smith stated the motion carried.

RESOLUTIONS:

- 5. PB2015-019 Goldfine, Matthew (5 Blue Point Cove). As the Resolution was made available to the Board previously, Mr. DeNoia summarized the Resolution after which Mr. Kleiberg made a motion to approve the resolution which was seconded by Mr. Savarese and received the following roll call:

- AYES: Mr. Wible, Mr. Foster, Councilwoman Cooper, Mr. Savarese, Mr. Kleiberg, Mr. Sullivan, Mr. Kahle, Mr. Proto, Mr. Whitson
- NAYES: None
- ABSTAIN: None
- ABSENT: Mr. Widdis
- INELIGIBLE: Mr. Fichter

Ms. Smith stated the motion carried.

PETITIONS FROM THE PUBLIC: Vice Chairman Whitson opened the meeting to Petitions from the Public. As no one else from the public wished to be heard, Vice Chairman Whitson closed that portion of the meeting.

Mr. Wible had a question regarding a status update on the written resolution for Acute Care. Mr. DeNoia indicated he gathered 97 pages of relevant documents from last year and a half. He is attempting to prepare a resolution that includes everything from the approval from July 14th and the last meeting in January concerning all the issues. His goal is to have it prepared within the next week and circulate it to the professionals, get consensus and present and consider it at the next meeting.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 9:59 p.m. on a motion by Mr. Foster which was seconded by Mr. Kahle and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary